

Preliminary Draft

Phase I Municipal Stormwater NPDES and State Waste Discharge General Permit

May 16, 2005

Permit No. _____

Coverage Date _____

Issuance Date:

Effective Date:

Expiration Date:

**National Pollutant Discharge Elimination System and
State Waste Discharge General Permit for Discharges
from Large and Medium Municipal Separate Storm Sewer Systems**

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
OLYMPIA, WASHINGTON 98504-7600

In compliance with the provisions of
The State of Washington Water Pollution Control Law
Chapter 90.48 Revised Code of Washington
and
The Federal Water Pollution Control Act
(The Clean Water Act)
Title 33 United States Code, Section 1251 et seq.

Until this permit expires, is modified, or revoked, Permittees that have properly obtained coverage under this permit are authorized to discharge to waters of the state in accordance with the special and general conditions which follow.

Dave Peeler
Water Quality Program Manager
Department of Ecology

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¹ Terms that are included in the definitions and acronyms section are indicated in italics the first time they are used in the text of the permit.

1 SPECIAL CONDITIONS

2 **S1. PERMIT COVERAGE AND PERMITTEES.**

3 A. Permit Coverage Area

4 This permit covers *discharges* from *Large and Medium Municipal Separate Storm*
5 *Sewer Systems (MS4s)* as established at Title 40 CFR 122.26, except for *municipal*
6 *separate storm sewers (MS3s)* owned or operated by the Washington State Department
7 of Transportation.
8

9 B. The following entities had coverage under ~~a~~the previous municipal *stormwater* permit
10 and Ecology has approved their timely reapplications for coverage under this
11 permitreapplied for coverage. Their~~The~~ coverage date under the previous permit ends
12 and coverage under this permit begins on the effective date of this permit. These
13 entities are covered under this permit as Permittees:

14 The City of Seattle

15 The City of Tacoma

16 King County

17 Snohomish County

18 Pierce County

19 Clark County
20

21 C. King County had coverage under a previous municipal *stormwater* permit, as a *Co-*
22 *Permittee* with the City of Seattle, and Ecology has approved its timely reapplication
23 for coverage under this permitreapplied for coverage. Their~~King County's~~ coverage
24 date under the previous permit ends and coverage under this permit begins on the
25 effective date of this permit. King County is covered as a Co-Permittee with the City of
26 Seattle for discharges ~~it owns or operates~~for which it is responsible in~~under the~~
27 existing agreement with the City of Seattle.

28 D. Upon application and coverage in accordance with Special Condition S1.F, the
29 following entities are covered under this permit as Secondary Permittees:

30 1. Port of Seattle, excluding Seattle-Tacoma International Airport

31 2. Port of Tacoma

32 3. Drainage, diking, flood control, or diking and drainage districts located in the Cities
33 or unincorporated portions of the Counties listed in ~~S2-AS1.B.~~, above, which own
34 or operate municipal separate storm sewers serving non-agricultural land uses.

35 4. Other owners or operators of municipal separate storm sewers located in the Cities
36 or unincorporated portions of the Counties listed in ~~S2-AS1.B.~~, above.
37

38 E. Unless otherwise noted, the term "Permittee" shall include Permittee, Co-Permittee, and
39 Secondary Permittee, as defined above.

1 F. Coverage for Secondary Permittees

2 1. In order to obtain coverage under this permit, each secondary Permittee identified
3 under Special Condition S1.D shall submit a *Notice of Intent* (NOI) and provide
4 public notice of the application for coverage in accordance with WAC 173-226-
5 130. The NOI shall constitute the application for coverage. Ecology will notify
6 applicants in writing of their status concerning coverage under this permit within 90
7 days of Ecology's receipt of the NOI and ~~demonstration that~~after the public notice
8 requirements have been met. Ecology will provide notice in writing to affected
9 Permittees and Co-Permittees of all new Secondary Permittees granted coverage
10 under this permit.

11 2. NOIs shall be submitted to:

12 Department of Ecology
13 Water Quality Program
14 Municipal Stormwater Permit Program
15 P.O. Box 47600
16 Olympia, WA 98504-7600

17 **S2. AUTHORIZED DISCHARGES.**

18 **[NOTE TO ECOLOGY: Seattle's comments on S2 are found in Attachment 1]**

19 A. This permit authorizes the discharge of stormwater to surface waters and to ground
20 *waters of the state* from municipal separate storm sewers owned or operated by each
21 Permittee, Co-Permittee, and Secondary Permittee identified in Special Condition S1 as
22 follows:

23 1. *Existing stormwater discharges.*

24 2. *New stormwater discharges* constructed after the issuance date of this permit that
25 have received all applicable state and local permits and use authorizations,
26 including compliance with Ch. 43.21C RCW (the State Environmental Policy Act),
27 and that are in compliance with Special Condition S5. COMPLIANCE WITH
28 STANDARDS, of this permit.

29 3. Stormwater discharges to ground waters of the state are covered under this permit,
30 except that stormwater discharges to ground waters of the state that discharge
31 through facilities regulated under the Underground Injection Control (UIC)
32 program, Chapter 173-218 WAC, are not covered under this permit.

33 4. Stormwater discharges to ground waters ~~not in hydraulic continuity with surface~~
34 ~~water~~ are covered in this permit only under state authorities, Chapter 90.48 RCW,
35 the Water Pollution Control Act.

36 B. This permit authorizes discharges of stormwater associated with industrial and
37 construction activity, process wastewater, and non-stormwater discharges from
38 municipal separate storm sewers owned or operated by the Permittee, to waters of the
39 state, only under the following conditions:

1. Non-stormwater discharges and process wastewater must be authorized by another *National Pollutant Discharge Elimination (NPDES)* permit or identified by and in compliance with Special Condition S7.C.8 Illicit Connections and Illicit Discharges Detection and Elimination; or
 2. *Stormwater associated with industrial activity*, as defined by 40CFR122.26(b)(14), must be authorized by a separate individual or general NPDES permit, such as the Industrial Stormwater General Permit, Construction Stormwater General Permit, or another General Permit or individual permit issued by the Department.
- C. This permit authorizes discharges from fire fighting activities, except training exercises, unless the discharges from fire fighting activities are identified as significant sources of pollutants to waters of the State.
- D. This permit does not authorize illicit discharges except as allowed in Special Condition S7.C.8. *Illicit Connections and Illicit Discharges Detection and Elimination*, nor does it relieve entities responsible for illicit discharges, including spills of oil or hazardous substances, from responsibilities and liabilities under state and federal laws and regulations pertaining to those discharges.

S3. RESPONSIBILITIES OF PERMITTEES, CO-PERMITTEES, AND SECONDARY PERMITTEES

- A. Each Permittee, Co-Permittee and Secondary Permittee is responsible for **compliance complying** with the terms of this permit for the municipal separate storm sewers it owns or operates **that discharge to the MS4**.

[NOTE TO ECOLOGY: This clarifies that the permit does not cover MS3s discharging to the combined sewer.]

1. Each Permittee is required to comply with all conditions of this permit, except for S8., *Stormwater management program for Co-Permittees and Secondary Permittees*.
 2. Each Co-Permittee and Secondary Permittee is required to comply with all conditions of this permit, except for Special Condition S7., *Stormwater management program for Permittees*.
- B. Permittees, Co-Permittees and Secondary Permittees may rely on another entity to meet one or more of the requirements of this permit, if the other entity, in fact, implements the **control measure requirement**, and agrees to implement **the control measure the requirement** on the Permittee's behalf. Permittees that are relying on another entity to satisfy one or more of their permit **obligations requirements** remain responsible for permit compliance if the other entity fails to **implement satisfy** the permit **conditions requirement(s)**. Where permit responsibilities are shared they must be documented as follows:

- 1 1. Permittees and Co-Permittees that are continuing coverage under this permit must
2 submit a statement that describes ~~the~~ how permit requirements ~~that~~ will be
3 implemented by other entities. The statement must be signed by all participating
4 entities. There is no deadline for submitting such a statement, provided that this
5 does not alter implementation deadlines. Permittees and Co-Permittees may amend
6 their statements during the term of the permit to establish, terminate, or amend
7 shared responsibility arrangements, and submit the amended statements to Ecology.
- 8 2. Secondary Permittees must submit an NOI that describes which requirements they
9 will implement and identify the entities that will implement the other permit
10 requirements in the area served by the secondary Permittee's MS4. A statement
11 confirming the shared responsibilities, signed all participating entities, must
12 accompany the NOI. Secondary Permittees may amend their NOI, during the term
13 of the permit, to establish, terminate, or amend shared responsibility arrangements,
14 provided this does not alter implementation deadlines.

- 15 C. Unless otherwise noted, all appendices to this permit are incorporated by this
16 reference as if set forth fully within this permit.

17 [NOTE TO ECOLOGY: S3.C should be used throughout the remainder of the permit as
18 the sole reference to the appendices being incorporated into the permit. Duplicative
19 wording elsewhere has been deleted.]

20 **S4. TOTAL MAXIMUM DAILY LOAD ALLOCATIONS**

21 [NOTE TO ECOLOGY: Seattle is generally in favor of the TMDL approach proposed by
22 Ecology]

- 23 A. Permittees identified in Appendix 6 must comply with the Total Maximum Daily Load
24 (TMDL) requirements contained in Appendix 6. The following requirements apply if
25 an applicable Total Maximum Daily Load (TMDL) is approved for stormwater
26 discharges from MS4s owned or operated by the Permittee. Applicable TMDLs or
27 applicable TMDL requirements are TMDLs which have been approved by EPA on or
28 before the issuance date of this permit, or which have been approved by EPA prior to
29 the date that the Permittees application is received by Ecology, which ever is later. All
30 Permittees must be in compliance with applicable TMDL requirements, where
31 applicable TMDL requirements are defined as actions and activities listed in Appendix
32 6 for the discharge of pollutants from MS4s owned or operated by the permittee.

33 [NOTE TO ECOLOGY: (1) Seattle understands Ecology's intent in S4.A. is to reference
34 specific requirements contained in Appendix 6 and incorporate Appendix 6 into the permit.
35 (2) Need to limit the concept of "applicable" TMDLs to only those TMDLs that place
36 requirements on MS4 discharges. (3) Phrase "actions and activities" taken from Ecology's
37 language in S7.A. (4) Verbiage stating "...which by this references as if set forth fully
38 herein..." is deleted, since it is already stated in S3.C.]

1 B. For TMDLs not listed in Appendix 6 of this permit, ~~which is by this reference as if set~~
2 ~~forth fully herein~~, compliance with this permit shall constitute compliance with all
3 ~~applicable TMDLs~~ TMDL requirements for discharges from MS4s owned or operated
4 ~~by the Permittee. Permittees shall track actions required by this Permit that are relevant~~
5 ~~to applicable TMDLs within their jurisdiction. Each Permittee shall monitor~~
6 ~~implementation of actions required to achieve compliance with the TMDL. The status~~
7 ~~of TMDL implementation must be included as part of the annual reporting~~
8 ~~requirements submitted to Ecology. Documentation of all relevant actions~~
9 ~~implemented that affect MS4 discharges to the waterbody segment that is the subject of~~
10 ~~the TMDL must be included in the annual report~~

11 [NOTE TO ECOLOGY: (1) Intent of original paragraph unclear. Assumed the intent is
12 to link TMDL compliance and permit compliance. (2) Removed the section requiring
13 permittees to track/monitor TMDL actions required by this permit on the assumption that
14 it will be covered by the permit reporting format and is included in S4.C.2 below.]

15
16 C. ~~For TMDLs and~~ Permittees listed in Appendix 6, ~~listed Permittees~~ shall comply with
17 the ~~TMDL following additional~~ requirements ~~identified in Appendix 6~~.

18 1. If water quality monitoring is a specific requirement of a TMDL listed in Appendix
19 6, the Permittee must either submit the existing TMDL monitoring Quality
20 Assurance Project Plan (QAPP) or develop and implement a new or revised TMDL
21 monitoring QAPP Quality Assurance Project Plan (QAPP). The Permittee shall
22 submit ~~the all~~ TMDL QAPPs for monitoring listing in Appendix 6 no later than 90
23 days after the effective date of this permit, unless otherwise specified in Appendix
24 6. The QAPP will be implemented beginning no later than 180 days after the
25 effective date of this permit. The monitoring plan shall be submitted to ~~the~~
26 Department Ecology in both paper and electronic form and shall include:

- 27 a. A detailed discussion and description of the goal and objective(s), monitoring
28 (experimental) design, and sampling and analytical methods.
- 29 b. A list and maps of the selected TMDL monitoring sites.
- 30 c. The frequency of data collection to occur at each station or site and the number
31 and types of precipitation events to be targeted for sampling.
- 32 d. The method and location(s) of precipitation measuring devices.
- 33 e. The triggers for automated flow monitoring devices, if used.
- 34 f. The parameters to be measured, as appropriate for and relevant to the TMDL.

35 ~~g. The QAPP will be implemented beginning no later than 180 days after the~~
36 ~~effective date of this permit.~~

37 [NOTE TO ECOLOGY: (1) Need to clearly allow permittees to submit existing QAPP
38 documentation rather than, as appears in original, require permittees to develop new ones.
39 (2) C.1.g. is not part of the monitoring plan per se, as indicated in the leading paragraph.
40 It has, therefore, been incorporated into the body of the text above.]

2. For TMDLs listed in Appendix 6, affected Permittees shall ~~include~~provide, as part of the Permittee's annual report to ~~the Department Ecology, a TMDL Summary Implementation Report. The report shall include~~ the status ~~and of required~~ actions for MS4 discharges to the waterbody segment that is the subject of the TMDL taken by the Permittee to implement the TMDLs. ~~The TMDL Summary Report shall document relevant actions taken by the Permittee that affect MS4 discharges to the waterbody segment that is the subject of the TMDL.~~ The ~~report-report~~ must also identify the status of any applicable TMDL implementation schedule milestones.

[NOTE TO ECOLOGY: (1) The intent of the paragraph, which is to require permittees to report on the status of MS4-related TMDL activities, is retained. (2) As best can be determined, there is no such official report under the TMDL program as "TMDL Summary Implementation Report," and so it has been removed.]

- D. For TMDLs that are approved by EPA after this permit is issued, ~~the Department Ecology~~ may establish additional TMDL-TMDL-related permit requirements through future permit modification, administrative orders, or when this permit is reissued. Permittees are encouraged to participate in development of TMDLs within their jurisdiction and to begin implementation implementing actions independent of specific permit conditions. ~~The Department may modify this permit to incorporate requirements from TMDLs completed after the issuance of this permit if the Department determines implementation of actions, monitoring or reporting necessary to demonstrate reasonable further progress toward achieving TMDL waste load allocations, and other targets, are not occurring and must be implemented during the term of this permit.~~

[NOTE TO ECOLOGY: The last sentence seemed redundant with the first and has been removed.]

S5. COMPLIANCE WITH STANDARDS

[NOTE TO ECOLOGY: Seattle's comments on S5 are found in Attachment 1]

- A. This permit does not authorize a violation of Washington State surface water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC), sediment management standards (chapter 173-204 WAC), or human health-based criteria in the national Toxics Rule (Federal Register, Vol. 57, NO. 246, Dec. 22, 1992, pages 60848-60923).
- B. Existing Stormwater Discharges. In order to meet the goals of the Clean Water Act and make progress towards compliance with applicable surface water, ground water and sediment management standards for all existing stormwater discharges, each Permittee is required to reduce the discharge of pollutants to the Maximum Extent Practicable (MEP).

1 To meet the requirement to reduce the discharge of pollutants to the MEP, each
2 Permittee shall comply with the requirements of this permit.

3 C. New Stormwater Discharges. All new stormwater discharges must comply with all
4 applicable surface water, ground water and sediment management standards. New
5 stormwater discharges, authorized or allowed by the Permittee, shall not cause or
6 contribute to a violation of applicable standards. New stormwater discharges include
7 *new stormwater sources* and *new stormwater outfalls*, including all sources contributing
8 to the new stormwater *outfall*. Compliance with *water quality standards* shall be
9 determined as follows:

10 1. If the new stormwater discharge is controlled in accordance with the technical
11 standards in Appendix 1 (which is by this reference as if set forth fully herein) and
12 in compliance with the terms of this permit, then the discharge is in compliance
13 unless *site-specific information* as in 2, below, indicates otherwise. From the
14 effective date of this permit until the date the Permittee adopts the technical
15 standards in this permit, including, at a minimum Appendix 1, the *Best management*
16 *Practices (BMP)* selection and site planning process, types of BMPs and design
17 criteria for BMPs required under S7.C.5 of this permit, each Permittee must provide
18 information to proponents of projects that will result in new stormwater discharges
19 as follows:

- 20
- 21
- 22 a. That new stormwater discharges are not allowed to cause or contribute to a
23 violation of applicable surface water, ground water and sediment management
24 standards, including the State's narrative criteria for water quality; and
- 25 b. That project proponents may apply the technical standards referenced in
26 paragraph S5.C.1, above, as a means of achieving compliance; and
- 27 c. If project proponents choose not to apply the technical standards referenced in
28 paragraph S5.C.1, above, then they must be prepared to demonstrate that the
29 new stormwater discharge does not cause or contribute a violation of applicable
30 surface water, ground water and sediment management standards. Project
31 proponents must be prepared to document how stormwater BMPs were selected,
32 the pollutant removal expected from the selected BMPs, the technical basis
33 which support the performance claims for the selected BMPs, and an
34 assessment of how the selected BMPs will comply with applicable State water
35 quality standards and satisfy the state requirement under Chapter 90.48 RCW to
36 apply all known, available, reasonable methods of prevention, control and
37 treatment (AKART) prior to discharge.
- 38 2. If, prior to authorization of a new stormwater discharge, site-specific information
39 indicates that the technical standards in this permit, including, at a minimum
40 Appendix 1, the BMP selection and site planning process, types of BMPs and
41 design criteria for BMPs required under S7.C.5 of this permit are not sufficient to

1 protect beneficial uses of waters of the state from impacts which cause or contribute
2 to loss or impairment, then additional controls necessary to protect beneficial uses
3 must be applied. The additional controls determined necessary to protect beneficial
4 uses must be in place prior to the discharge from the new stormwater source or
5 outfall.

- 6 D. Ecology may modify or revoke and reissue this *general permit* in accordance with
7 General Condition G14., if Ecology becomes aware of additional control measures,
8 management practices or other actions beyond what is required in this permit, that are
9 necessary to reduce the discharge of pollutants to the MEP or to protect water quality.

1 S6. MONITORING

2 Ecology is requesting comments on the objectives of the proposed monitoring program.

3 We are interested in assessing the effect of implementing the stormwater management programs
4 required under this permit. This includes looking at receiving waters, stormwater quality and
5 BMP effectiveness. The information gained will be used to provide feedback for local
6 stormwater management programs and Ecology's permitting program.
7

8 Should Ecology require integrated, collaborative, WRIA-scale monitoring programs? WRIA-
9 scale monitoring programs could eventually integrate monitoring among all municipal
10 stormwater permittees, Phase I, Phase II and WSDOT. Or are independent monitoring programs
11 adequate to development the information basis for providing feedback on stormwater
12 management programs?
13
14

15 A. Stormwater and Receiving Water Monitoring

- 16 1. The Permittees, Port of Seattle and Port of Tacoma shall develop and implement
17 comprehensive, long-term water quality monitoring program during the term of this
18 permit. The monitoring program shall be designed to contribute to answering the
19 following questions about the effectiveness of the municipal stormwater permitting
20 and program efforts in protecting and restoring water quality and beneficial uses:

- 21 a. Is implementation of the Stormwater Management Program preventing impacts
22 from the effects of new development by controlling construction and post-
23 construction *runoff*?
24 b. Are the Permittees preventing impacts and seeing improvements to beneficial
25 uses by implementing a comprehensive stormwater management program?

26 2. Monitoring Program Coordination and Planning

27 The Permittees and ports may choose to develop the monitoring program, conduct
28 the monitoring, and report results through an integrated, long-term, water quality
29 monitoring program in collaboration with the other Phase I and Phase II MS4
30 permittees in the Water Resource Inventory Area(s) (WRIA) in which their MS4 is
31 located; or they may independently develop a monitoring program, conduct the
32 monitoring, and report results, in accordance with the requirements, below.

33 If a Permittee chooses to participate in the development of an integrated water
34 quality monitoring program in collaboration with the other Permittees in the WRIA
35 in which their MS4 is located, the collaborative effort shall be conducted as
36 follows:

- 37 a. Permittees that choose to participate in the development of an integrated water
38 quality monitoring program shall form a committee for this purpose. The
39 participating Permittees shall submit a written agreement, signed by all

1 participants, that includes the monitoring program development schedule and
2 responsibilities.

- 3 b. The development and implementation of the integrated monitoring program
4 shall be supported by the combined resources of all the participating Permittees.
- 5 c. One permittee shall be identified as the lead permittee for purposes of reporting.
6 The lead permittee shall be responsible for the overall monitoring program
7 management and shall prepare and submit to ~~the Department~~Ecology unified
8 monitoring program plans and reports.

9 The activities of the lead permittee shall include, ~~but not be limited to,~~ the
10 following:

- 11 i. Coordinate and conduct Monitoring Committee meetings on an as needed
12 basis.
- 13 ii. Coordinate monitoring activities and participate in any subcommittees
14 formed as necessary to coordinate monitoring activities.
- 15 iii. Provide technical and administrative support and inform the other
16 permittees of the progress of monitoring activities or studies.
- 17 iv. Coordinate all the activities with ~~the Department~~Ecology, including the
18 submittal of all reports and plans developed by the committee.
- 19 v. Obtain public input for any proposed monitoring plans, where applicable.
- 20 vi. Cooperate in the WRIA-based monitoring program.
- 21 d. The non-lead permittees on the committee shall be responsible for
22 implementing monitoring programs and coordinating among their internal
23 departments and agencies, as appropriate, to facilitate the implementation of the
24 monitoring program.

25 The activities of the non-lead permittees shall include, ~~but not be limited to,~~ the
26 following:

- 27 i. Participate in a Monitoring Committee comprised of the lead permittee
28 and one representative of each of the other permittees. The lead permittee
29 will take the lead role in initiating and developing the WRIA-wide
30 monitoring activities necessary to comply with S6.A above. The
31 committee shall meet on a regular basis (at least six times per year). Each
32 permittee shall designate one official representative to the Monitoring
33 Committee.
- 34 ii. Review, approve, and comment on all plans, strategies, and monitoring
35 programs, as developed by the lead permittee or any permittee
36 subcommittee to comply with this permit.
- 37 iii. Conduct and coordinate with the lead permittee any monitoring and
38 characterizations needed to implement the monitoring program.

- 1 iv. Prepare and submit all required reports to the lead permittee in a timely
2 manner.
- 3 3. The Permittees and ports shall support the monitoring planning efforts by providing
4 the following resources and information:
- 5 a. Counties
- 6 i. Each County shall identify potential monitoring stations in receiving
7 waters and in outfalls associated with those receiving waters, in small sub-
8 basins less than ten square miles in area and representing each of the
9 following land uses:
- 10 (1) Medium- to high-density urbanized,
11 (2) Areas of new development (urbanizing), and
12 (3) Low-density residential basins outside the urban growth boundary.
- 13 ii. Each County shall provide maps and staff assistance as necessary to
14 facilitate the evaluation and create a list of potential sites, and to determine
15 land uses in the contributing areas.
- 16 b. Cities
- 17 i. Each City shall identify potential monitoring stations in receiving waters and
18 in outfalls associated with those receiving waters, in small sub-basins less
19 than ten square miles in area and representing each of the following land
20 uses:
- 21 (1) High-density urbanized, and
22 (2) Medium- to high-density urbanized.
- 23 ii. Each City shall provide maps and staff assistance as necessary to facilitate
24 the evaluation and create a list of potential sites, and to determine land
25 uses in the contributing areas.
- 26 c. Ports of Seattle and Tacoma
- 27 i. Each Port shall identify potential outfalls for water quality/toxicity
28 monitoring stations and in-line sediment traps.
- 29 ii. Each Port shall provide maps and staff assistance as necessary to facilitate
30 the evaluation of potential sites and to determine land uses in the
31 contributing areas.
- 32 d. Other secondary Permittees will have no responsibilities for monitoring under
33 this section during this permit term, however, they are required to provide
34 information, maps and access for sampling efforts, as necessary. Other
35 secondary Permittees are encouraged to participate in the monitoring program.
- 36 e. The monitoring program shall include confirmed sampling locations distributed
37 among the geographical areas covered by the permit and among the land uses
38 listed in 3.a.i. and 3.b.i. above. Each sub-basin selected (except for the in-line

1 sediment traps at the Ports) must include a receiving water sampling site and
2 should include a minimum of two outfalls.

3 4. Monitoring Program Development, Review, and Approval
4

5 The monitoring program and implementation plan shall be submitted no later than 2
6 years after the effective date of this permit. The monitoring program shall be
7 submitted in both paper and electronic form and shall include all the required
8 elements of the QAPP, including:

- 9 a. A detailed discussion and description of the purpose, design, and methods of the
10 water quality monitoring program.
- 11 b. A list and maps of all selected receiving water and outfall sampling sites.
- 12 c. The frequency and type of sampling (data collection and analytical methods) or
13 other monitoring effort to occur at each station or site, including but not limited
14 to:
- 15 i. Sampling in the receiving waters:
- 16 (1) Benthic invertebrates (RIV-PAC, fine sediment and temperature
17 metrics),
- 18 (2) Embeddedness
- 19 (3) Temperature
- 20 (4) pH
- 21 (5) Hardness
- 22 ii. Establishing physical conditions and trends in the stream channel. The
23 monitoring program shall develop this strategy using information from
24 “Monitoring Urban Streams: Strategies and Protocols for Humid-Region
25 Lowland systems” (Environmental Monitoring and Assessment, **71**: 143-
26 164, 2001.)
- 27 iii. Flow-weighted composite storm sampling, and base flow sampling,
28 in outfalls for the following constituents/parameters as appropriate
29 for the monitoring objective: (1) Flow, Hydrograph data including
30 antecedent dry period, rainfall and runoff, discussion of
31 representativeness of storm samples and storm types,
- 32 (2) TSS and turbidity,
- 33 (3) Conductivity if tidally influenced,
- 34 (4) Chloride,
- 35 (5) Metals (including, at a minimum, total and dissolved copper, zinc, ,
36 cadmium, and lead; and mercury sampling as appropriate in some
37 high density commercial or industrial urban settings) and hardness,

- (6) Base/Neutral/Acids (BNAs),
- (7) Pesticides (commercially available and/or known to be applied roadside),
- (8) Nutrients (including total nitrogen, phosphorus, nitrate/nitrite and orthophosphate),
- (9) Biochemical oxygen demand (BOD), and
- (10) Toxicity testing of a “seasonal first-flush” storm event (as defined by Ecology).

iv. Grab samples in outfalls for the following constituents/parameters as appropriate for the monitoring objective:

(1) Total Petroleum Hydrocarbons (TPH) using NWTPH-Gx and NWTPH-Dx., and

(2) E. coli and Enterococci bacteria.

v. For in-line sediment traps, percent solids, pH, metals, and BNAs as appropriate for the contributing area land use.

- d. The number of each type of event (e.g. baseflow; “seasonal first-flush” and/or other dry season rainfall; wet season rainfall) to be sampled at each location for each of the types of sampling identified in part C above.
- e. An approved or final monitoring plan must be adopted no later than 30 months after the effective date of this permit.
- f. Full implementation of the stormwater and receiving water monitoring program shall begin no later than 36 months after the effective date of this permit. The third party or parties selected to develop the monitoring plan may continue to be utilized to collect and analyze the data and to write the subsequent reports required under this permit.

5. Monitoring Program Reporting Requirements

The stormwater monitoring report shall be submitted by December 31 each year, beginning in 2009. Each report shall include all monitoring data collected during the preceding period from October 1 through September 30. Each report shall also integrate data from earlier years into the analysis of results, as appropriate. Permittees that choose to participate in an integrated water quality monitoring program shall submit a single integrated monitoring report. Reports shall be submitted in both paper and electronic form and shall include:

- a. A summary of the purpose, design, and methods of the monitoring program,
- b. The status of implementing the monitoring program,
- c. A comprehensive data and QA/QC report for each part of the monitoring program, with an explanation and discussion of the results of each monitoring project,

- d. An analysis of the results of each part of the monitoring program, including any identified water quality problems or improvements or other trends in stormwater or receiving water quality, and
- e. Recommended future actions based on the findings.
- f. If the Permittee monitors any pollutant more frequently than required by the required monitoring program, then the results of this monitoring shall be included in the report. If the Permittee conducts any other stormwater monitoring in addition to that required in the required monitoring program, then it shall provide a description of the additional monitoring in the report.

1 B. Best Management Practice (BMP) Effectiveness Monitoring Program

2 The Permittees and ports shall develop and implement a comprehensive, long-term
3 BMP effectiveness monitoring program as described in this section. Structural Runoff
4 Treatment BMPs, and Flow Reduction Strategies will be evaluated. The primary
5 purpose of the BMP effectiveness monitoring program is to provide a feedback loop for
6 adaptive management of the Permittees' stormwater management programs and the
7 Department of Ecology's municipal stormwater permitting program. The BMP
8 effectiveness monitoring program shall be designed to contribute to answering the
9 following questions about the short term and long term performance of BMPS in
10 protecting and restoring water quality and beneficial uses:

- 11 a. Is implementation of the Stormwater Management Program preventing impacts
12 from the effects of new development by controlling construction and post-
13 construction runoff?
- 14 b. Are the Permittees preventing impacts and seeing improvements to beneficial
15 uses by implementing a comprehensive stormwater management program?

16 1. BMP Effectiveness Monitoring - Program Coordination and Planning.

17 The Permittees and ports may choose to develop the BMP effectiveness monitoring
18 program, conduct the monitoring, and report results through a single long-term
19 monitoring program that will be supported by the combined resources of all of the
20 Permittees and the ports; or they may independently develop a BMP effectiveness
21 monitoring program, conduct the monitoring, and report results, in accordance with
22 the requirements, below. If a collaborative approach is chosen, the committee
23 process outlined in S8.A.2., above, shall be followed.

24 The BMP effectiveness monitoring program shall be designed to evaluate all of the
25 BMPs listed below, at no less than 2 sites per BMP, and 6 flow reduction strategies.
26 The monitoring program must include QAPPs for each BMP and flow reduction
27 strategy being monitored. The monitoring program must be developed by
28 qualified staff or contractors that have experience with Ecology's or EPA's
29 Guidelines for Quality Assurance Project Plans (QAPP). The Permittees shall
30 support monitoring planning efforts by providing the following resources and
31 information:

- 32 a. Responsibilities of Counties, Cities, and Ports of Seattle and Tacoma
- 33 i. Each Permittee shall identify potential sites where the following types of
34 BMPs are in use or planned for installation (the BMPs shall have been/will
35 be designed using criteria similar to the 2005 Western Washington
36 Stormwater Management Manual). QAPPs for short detention time BMPs
37 should follow the TAPE protocols. QAPPs for long detention time BMPs
38 will need to develop sampling protocols. BMP treatment types:

39 (1) Basic Treatment

40 Biofiltration swale

1 Filter strip

2 Basic wetpond

3 Treatment wetland

4 Sand filter

5 (2) Metals/Phosphorus Treatment

6 Amended sand filter

7 Two facility treatment train

8 Compost amended filter strips

9 Bioretention

10 Large wetpond

11 (3) Oil Control

12 Linear sand filter

13 Catch basin insert

14 ii. Each Permittee shall provide a prioritized list of the types of structural
15 treatment BMPs to monitor.

16 iii. Each City and County Permittee shall identify and describe a flow
17 reduction strategy that is in use or planned for installation in their
18 jurisdiction, and is suitable for monitoring.

19 iv. Each Permittee shall provide staff assistance as necessary to facilitate the
20 evaluation and selection of potential sites.

21 b. Other special Permittees will have no responsibilities for BMP effectiveness
22 monitoring under this section during this permit term.

23 2. BMP Effectiveness Monitoring Program Development, Review, and Approval

24 The Permittees and ports shall submit a BMP effectiveness monitoring program
25 plan no later than 2 years after the effective date of this permit. The monitoring plan
26 shall be submitted in both paper and electronic form and shall include:

27 a. A detailed discussion and description of the purpose, design, and methods of the
28 BMP effectiveness monitoring program, including Quality Assurance Project
29 Plans (QAPPs) for each BMP being monitored.

30 b. A detailed discussion and description of the purpose, design, and methods of the
31 flow reduction strategy monitoring program, and QAPPs for each flow
32 reduction strategy being monitored.

33 c. A list and maps of all proposed and selected monitoring sites, including the date
34 of installation/construction.

- d. The Permittees' prioritized lists of structural treatment BMPs to monitor.
- e. Records of inspection and maintenance on each of the BMPs selected.
- f. The methods, protocols, analytical laboratory methods to be used.
- g. The frequency of data collection to occur at each station or site and the number and types of precipitation events to be targeted for sampling.
- h. The parameters to be measured in the inflow to and outflow from each BMP, or flow reduction strategy, as appropriate for the contributing area land use and performance expectations of the selected BMP:
 - i. Flow (rate, duration and volume)
 - ii. Hydrograph data including antecedent dry period, rainfall and runoff, discussion of representativeness of storm samples and storm types.
 - iii. TSS,
 - iv. pH, hardness, and temperature,
 - v. Metals (including, at a minimum, total and dissolved copper, zinc, arsenic, cadmium, chromium, and lead),
 - vi. Total Petroleum Hydrocarbons (NWTPH-Gx and NWTPH-Dx),
 - vii. BNAs,
 - viii. Pesticides (commercially available and/or known to be applied roadside),
 - ix. Nutrients (including total nitrogen, total phosphorus, nitrate/nitrite and orthophosphate),
 - x. Biochemical oxygen demand (BOD),
 - xi. E. coli and Enterocci bacteria, and/or
 - xii. Toxicity
- i. The BMP effectiveness monitoring program must also describe a framework for Phase II Permittees in western Washington to enhance BMP effectiveness monitoring during future permit cycles.
- j. An approved BMP effectiveness monitoring plan must be adopted by no later than 30 months after the effective date of this permit.
- k. Full implementation of the stormwater and receiving water monitoring program shall begin no later than 36 months after the effective date of this permit. . The third party or parties selected to develop the monitoring plan may continue to be utilized to collect and analyze the data and to write the subsequent reports required under this permit.

3. BMP Effectiveness Monitoring Reporting Requirements

The BMP effectiveness monitoring report shall be submitted by December 31 each year, beginning in 2009. Each report shall include all monitoring data collected

1 during the preceding period from October 1 through September 30. Each report
2 shall also integrate data from earlier years into the analysis of results, as
3 appropriate. Permittees that choose to participate in an integrated water quality
4 monitoring program shall submit a single integrated monitoring report. Reports
5 shall be submitted in both paper and electronic form and shall include:

- 6 a. A summary of the purpose, design, and methods of the monitoring program,
- 7 b. The status of implementing the monitoring program,
- 8 c. The status of implementing the QAPP for each part of the monitoring program,
9 with an explanation and discussion of the results of each component,
- 10 d. An analysis of the results of each component of the monitoring program,
11 including any identified BMP performance problems, and
- 12 e. Recommended future actions based on the findings.

14 **S7. STORMWATER MANAGEMENT PROGRAM**

16 A. Each Permittee shall implement a Stormwater Management Program (SWMP) during
17 the term of this permit. For the purpose of this permit a stormwater management
18 program is a set of actions comprising the *components* listed in S7.B., S7.C.1 through
19 S7.C.10., and additional actions and activities, where necessary, to meet the TMDL
20 requirements ~~of applicable TMDLs described in S4.~~

- 21 1. Each Permittee shall prepare written documentation of their SWMP and submit it to
22 Ecology in written and electronic formats with the first year annual report, in
23 accordance with the requirements in S9 REPORTING REQUIREMENTS. The
24 documentation of the SWMP shall be organized according to the program
25 components in S7.C.; and shall be updated annually as required by S7.B, S7.C.2 or
26 S7.C.6. The SWMP documentation shall include a description of each of the
27 program components included in S7.C, and any additional actions and activities
28 necessary to meet the TMDL requirements of applicable TMDLs as described in
29 S4. Ecology shall review and certify in writing within 60 days that the reports
30 submitted by the permittee satisfies the requirements of this permit.

31 [NOTE TO ECOLOGY: Only a few parts of the SWMP require annual updates, according
32 to the permit terms.]

- 34 2. Each permittee shall track the cost of development and implementation of the
35 SWMP required by this section. This information shall be included in the annual
36 report.

1 B. The SWMP shall be designed to reduce the discharge of pollutants from MS4s to the
2 maximum extent practicable and protect water quality.

3 Permittees are to continue implementation of existing stormwater management
4 programs until they begin implementation of the updated stormwater management
5 program in accordance with the terms of this permit, including implementation
6 schedules. The Department of Ecology may facilitate or engage in efforts related to
7 SWMP requirements (e.g., coordination) and modifications to SWMP requirements in
8 order to meet stormwater management objectives.

9 During the coverage period of the permit, if the Permittee can demonstrate an
10 equivalent or improved approach to any of the components listed within the SWMP,
11 Ecology can modify the permit components, including Minimum Performance
12 Measures, -upon approval of a request by the permittee.- Permittee shall be responsible
13 for providing funding to cover the costs associated with review and approval by
14 Ecology of Permittee's proposed modifications. Permittee shall update its SWMP
15 annually to include any changes caused by modifications made under this section.

16 [NOTE TO ECOLOGY: Seattle would like to retain some degree of flexibility regarding
17 program implementation and minimum performance standards, particularly should our
18 coverage under this permit extend beyond five years. We propose that the phrase,
19 "coverage period of the permit" rather than "term of the permit" to allow Ecology to
20 modify SWMP-related portions of the permit through to the time the next permit is issued.]

21
22 C. The SWMP shall include the components listed below. All components generally
23 discussed in subsections labeled "a," are mandatory, and must be implemented by each
24 Permittee by the listed mandatory minimum performance measures in subsections
25 labeled "b." within the time frames allowed. SWMP components and other permit
26 terms do not require Permittees to exceed the limits set by any local, state or federal
27 law. The requirements of the stormwater management program shall apply to
28 municipal separate storm sewers and areas served by municipal separate storm sewers
29 owned or operated by each Permittee. Co-Permittees and Secondary Permittees are
30 responsible for implementation of Stormwater Management Programs as indicated in
31 Special Condition S8.

32 1. Legal Authority

- 33 a. No later than the effective date of this permit, each Permittee must be able to
34 demonstrate that it can ~~they~~ operate pursuant to adequate legal authority
35 established by statute, ordinance, permit, contracts, orders, interagency
36 agreements, or similar means, within the limits of state and federal law and
37 municipal authority, which authorizes or enables the Permittee to: ~~control~~
38 ~~discharges to and from municipal separate storm sewers owned or operated by~~
39 ~~the Permittee.~~

b. ~~This legal authority, which may be a combination of statute, ordinance, permit, contracts, orders, interagency agreements, or similar means, shall include the ability to:~~

[NOTE TO ECOLOGY: Suggest returning to 40 CFR 122.26(d)(2)(i)(A)-(F), for the Part II application, which required that applicants “can operate pursuant to legal authority established by statute ordinance or series of contracts which authorizes or enables the applicant...” Drafting reflects the measures which could be in place by the permit’s effective date. Permittees have municipal power to maintain the Part II legal authority. Permittees can regulate others through municipal authority but cannot guarantee outcomes. The federal rule recognized this fundamental limit to municipal authority, but the Ecology draft not longer does. As to changes that Ecology proposes: Any phased increases in coordination between this new set of Phase I Permittees or in regulation should be addressed in other sections of the permit, with a compliance time frame that is appropriate.]

- i. Control through ordinance, order, or similar means, the contribution of pollutants to municipal separate storm sewers owned or operated by the Permittee from stormwater discharges associated with industrial activity, and control the quality of stormwater discharged from sites of industrial activity;
- ii. Prohibit through ordinance, order, or similar means, illicit discharges to the municipal separate storm sewer owned or operated by the Permittee;
- iii. Control through ordinance, order, or similar means, the discharge of spills and the dumping or disposal of materials other than stormwater into the municipal separate storm sewers owned or operated by the Permittee;
- ~~iv.~~ iv.—Control the contribution of pollutants from one portion of the municipal separate storm sewer system to another portion of the municipal separate storm sewer system, where there is a physical interconnection between municipal separate storm sewers owned or operated by ~~the municipality, and those of an adjoining municipality or other public entity, including co-Permittees~~ coapplicants;

[NOTE TO ECOLOGY: The federal rule parallel to Section iv dealt only with co-applicants, so it then made sense to require controls be in place at application. The proposed general permit Permittees and co-permittees are not co-applicants]

[NOTE TO ECOLOGY: Paragraph iv is a rewrite of the 1995 condition that originally only applied to entities covered under NPDES permit. Most significantly, it expands the scope of this requirement beyond other permittees, to include “all adjoining municipalities or other public entities.” This is a problem for two reasons: (1) legal authority between Seattle and all adjoining municipalities would have to exist immediately upon the permit effective date, per the preamble paragraph; (2) there is little recourse should the adjoining municipality or other public entity not want to participate.]

- 1 v. Require compliance with conditions in ordinances, permits, contracts, or
2 orders; and,
- 3 vi. Within the limitations of state and federal law, carry out all inspection,
4 surveillance, and monitoring procedures necessary to determine compliance
5 and non-compliance with permit conditions, including the prohibition on
6 illicit discharges to the municipal separate storm sewer and compliance with
7 local ordinances.
- 8 c. Each Permittee shall submit, no later than one year from the effective date of the
9 permit, a statement by its legal counsel that describes the legal authority
10 Permittee has adopted-all-necessary-legal-authority-to-comply-with-this-permit-in
11 response to 40 CFR 122.26(d)(2)(i)(A-F).

12 [NOTE TO ECOLOGY: SPU and counsel are not aware of any precedent for the legal
13 counsel statement in an NPDES permit in this state. It is not counsel's role to characterize
14 or certify the actions of a Permittee. The statement is inappropriate and unduly broad,
15 and it should be deleted. In the alternative, Permittee or legal counsel could describe the
16 legal authority that permittees have adopted in response to federal rule, and drafting
17 reflects this approach.]

18 2. Gathering, Maintaining, and Using Adequate Information

19 [NOTE TO ECOLOGY: Seattle suggests placing this in the same (a), (b) format as other
20 components]

21 a. The SWMP shall include an ongoing program for gathering, maintaining, and
22 using adequate-appropriate information to conduct planning, priority setting, and
23 program evaluation activities. ~~The information and its form of retention shall~~
24 ~~include but not be limited to:~~

25 b. Minimum performance measures:

26 [NOTE TO ECOLOGY: Permittees will certainly gather, maintain, and use information
27 beyond that listed below, but the phrase, "...but not be limited to" creates an open-ended
28 permit condition, which is why it should be eliminated.]

- 29 a. i. No later than 2 years from the effective date each permittee shall map all
30 ~~known~~-municipal separate storm sewer outfalls and receiving waters owned or
31 operated by the permittee, and structural stormwater BMPs known to and
32 owned or-operated, ~~or maintained~~ by the Permittee.
- 33 b. ii. No later than 4 years from the effective date of this permit each permittee
34 shall map all tributary conveyances known to and owned or operated by the
35 Permittee, the associated drainage areas, and land use of all municipal separate
36 storm sewer outfalls owned or operated by the permittee with a 24" inches
37 nominal diameter or larger, or an equivalent cross-sectional area for non-pipe
38 systems, and indicate type, material, and size where known.

- 1 e. iii. No later than 4 years from the effective date of this permit each permittee
2 shall map areas served by the Permittee's MS3 for which the MS3 that
3 discharges stormwater to groundwater.

4 **[NOTE TO ECOLOGY: Paragraph 2.c. is unclear and the intent needs to be explained. Is**
5 **it referring to UICs? Does it apply to all infiltration systems? Natural Drainage Systems?**
6 **Open-bottomed vaults and catch basins? Downspout disconnects and flow dispersion?**
7 **Inflow and infiltration?]**

- 8 d. iv No later than 4 years after the effective date of this permit each Permittee
9 shall map areas served by the Permittee's MS3 and Map(s) depicting existing
10 land use
- 11 e. v No later than 4 years after the effective date of this permit each Permittee
12 shall map areas served by the Permittee's MS3 and Map(s) depicting zoning.
- 13 f. vi No later than 2-4 years from the effective date each permittee shall establish,
14 maintain and make available to the public, a data base, including at least the
15 following information generated by the Permittee.
- 16 (1)i. Precipitation records.
- 17 (2)ii. Stormwater quality and quantity records.
- 18 (3)iii. Data and information collected by the Permittee for the time period five
19 years prior to the effective date of this permit that provides Water-water
20 quality and physical characteristics of receiving waters that may be
21 impacted by stormwater discharges from municipal separate storm sewers
22 owned or operated by the permittee. Water quality and physical
23 characteristic data and information may be made available in the form of
24 either a searchable data base or as hard copies, electronic reports, at the
25 discretion of the Permittee.

26 **[NOTE TO ECOLOGY: (1) An open-ended requirement to provide all "water quality and**
27 **physical characteristics" data can be an enormous burden unless it is limited by a start**
28 **date, as Seattle has reports and data going back several decades, many of which are in hard**
29 **copy only. (2) In many cases, reports are preferred to data (i.e., pure values without**
30 **accompanying verbiage) in order to avoid misinterpretation of results. (3) There is a**
31 **distinct scientific difference between the terms "data" and "information" and the latter**
32 **does not always fit well in a database.**

- 33 viii. Each Permittee shall make available to Ecology, upon request, all available
34 GIS data layers depicting outfall locations, tributary conveyances, structural
35 stormwater BMPs, and, if known, the associated drainage areas of 24"
36 municipal separate storm sewer outfalls owned or operated by the Permittee.
37 GIS data shall be submitted in the format specified by Ecology at:
38 <http://www.ecy.wa.gov/services/gis/data/standards.htm>. Notification of updated
39 GIS data layers shall be included in annual reports. Ecology shall reimburse

Permittees for the cost of providing GIS data layers at the rate consistent with the Permittee's established policies.

viii. Upon request, and to the extent appropriate, Permittees shall provide mapping information to Co-Permittees and Secondary Permittees.

3. Coordination

a. The SWMP shall include coordination mechanisms among Permittees, co-Permittees, and secondary Permittees to encourage coordinated stormwater-related policies, programs and projects within a watershed. Coordination efforts will be determined by the Permittee and used to support its overall water quality objectives. The SWMP shall also include coordination mechanisms among departments within each jurisdiction. ~~to ensure compliance with the terms of this permit.~~

b. Minimum Performance Measures:

i. No later than ~~12~~ 6 months after the effective date of this permit, establish, in writing, ~~and begin implementation of,~~ intragovernmental (internal) coordination ~~agreement procedures to ensure~~ facilitate compliance with the terms of this permit.

[NOTE TO ECOLOGY: (1) The permit affects numerous City departments (Seattle Public Utilities, Parks and Recreation, Department of Planning and Development, Fleets and Facilities, Seattle City Light, and Seattle Department of Transportation. It will take time to develop, implement, and document the required coordination process, and (2) Seattle feels that "ensure" is not appropriate language in an MEP-based permit]

ii. No later than ~~24~~ 6 months after the effective date of this permit, establish, in writing, ~~and begin implementation of,~~ an intergovernmental coordination procedures on stormwater management, including

- Coordination mechanisms clarifying roles and responsibilities ~~to ensure~~ for the control of pollutants between physically interconnected MS3s of the Permittee and any other Permittee covered by this general permit.
- Process for coordinating stormwater management activities, for *shared waterbodies*, among Permittees, to avoid conflicting plans, policies and regulations.
- ~~Coordination necessary to develop an integrated monitoring program.~~

4. Public Involvement and Participation

a. The SWMP shall provide ongoing opportunities for public involvement in the decision making processes involving stormwater management programs and priorities, through advisory councils, watershed committees, participation in

1 developing rate structures, stewardship programs, environmental activities, or
2 other similar activities.

3 b. Minimum performance measures:

4 i. No later than 6 months after the effective date of this permit, ~~adopt~~
5 develop a process to create opportunities for the public to participate in an
6 advisory role ~~for public participation in the decision making processes~~
7 involving the development, implementation and update of the permittee's
8 SWMP. Each Permittee must develop and implement a process for
9 consideration of public comments on their SWMP.

10
11 ii. No later than 12 months after the effective date of this permit, begin
12 implementation of the public involvement program.

13 iii. Each Permittee must make their SWMP, the SWMP documentation
14 required under S7.A(1) and all submittals required by this permit,
15 including annual reports, available to the public on the ~~permittees'~~
16 permittee's website or submitted in electronic format to ~~the~~
17 Department Ecology for posting on ~~the Department's Ecology's~~ website.

18 5. Controlling Runoff from New Development, Redevelopment and Construction Sites

19 a. The SWMP shall include a program to prevent and control the impacts of runoff
20 from new development, redevelopment, and construction activities. The
21 program shall apply to private and public development, including roads.

22 b. Minimum performance measures:

23 i. The Minimum Requirements, thresholds, and definitions in Appendix 1, or
24 Minimum Requirements, thresholds, and definitions determined by Ecology
25 to be equivalent to that provided in Appendix 1, (which is by this reference
26 as if set forth fully herein), for new development, redevelopment, and
27 construction sites must be included in ordinance or other enforceable
28 documents adopted by the local government. More stringent requirements
29 may be used, and/or certain requirements may be tailored to local
30 circumstances through the use of basin plans or other similar water quality
31 and quantity planning efforts. Such local requirements and thresholds must
32 provide similarly protective ~~equal protection of receiving waters and equal~~
33 levels of pollutant ~~pollution~~ control as compared to Appendix 1.

34 [NOTE TO ECOLOGY: (1) Original verbiage is not clear regarding equivalency and
35 complying with 5.b.i above. (2) Reference to appendices already incorporated into permit
36 in S3.C. (3) Goal of NPDES is pollutant control, not broader guarantees].

37 ii. Adjustment and variance criteria equivalent to those in Appendix 1 must be
38 included.

[NOTE TO ECOLOGY: Because there may be differences in procedural and/or substantive requirements between the proposed requirements ii above and Seattle's existing ordinance, the criteria for Adjustments (Section 2.7 of Appendix 1) and Exceptions/Variations (Section 2.8 of Appendix 1) are still being analyzed with respect to equivalency with Seattle's existing Stormwater Code. Relevant provisions of Seattle's Code can be found at SMC 22.802.010 (Exceptions) and 22.808.010 (Exemptions). Pending further analysis, Seattle would propose including Seattle's existing requirements as an alternative to the Manual language.]

- iii. The local requirements must include a site planning process and BMP selection and design criteria that, when used to implement the minimum requirements on ~~a sites, specific basis,~~ will protect water quality, reduce the discharge of pollutants to the maximum extent practical, and satisfy the state requirement under chapter 90.48 RCW to apply all known, available, reasonable methods of prevention, control and treatment (AKART) prior to discharge. ~~Permittees must document how the criteria and requirements will protect water quality, reduce the discharge of pollutants to the maximum extent practical, and satisfy the state AKART requirements.~~

Permittees who choose to use the site planning process, and BMP selection and design criteria in the 2005 *Stormwater Management Manual for Western Washington*, or an equivalent manual approved by ~~the Department~~ Ecology, may ~~cite-use~~ this choice ~~as their sole documentation~~ to meet this requirement. If alternative site planning processes are used, requirements must provide similarly protective levels of pollutant control.

- iv. The program must allow non-structural preventive actions and source reduction approaches such as *Low Impact Development Techniques (LID)*, measures to minimize the creation of impervious surfaces, and measures to minimize the disturbance of soils and vegetation.

- v. Deadlines for and Review of Local Manual and Ordinances. No later than ~~12~~ 24 months from the effective date of this permit, each Permittee must adopt a local program that meets the requirements in S7C.5.~~ba.i~~ through iv., above. Ecology review and approval of the local manual and ordinances is required. ~~To ensure compliance with the 12 month deadline,~~ Permittees may use the following review process:

(1) The Permittee submits draft enforceable requirements, technical standards and manual to Ecology no later than ~~8-18~~ months after the effective date of this permit. Ecology will review and provide full written response to the Permittee outlining terms for approval.

(2) If this review process is followed, the deadline for adoption of enforceable requirements, technical standards and manual shall be automatically extended by the number of calendar days that Ecology exceeds a 60 day period for full written response.

(3) In the case of circumstances beyond Permittee's control that may result in noncompliance with the requirements of this section, the Permittee shall promptly notify Ecology and may submit a written request for an extension. Extensions shall be granted by Ecology for a reasonable length of time appropriate to the circumstances.

[NOTE TO ECOLOGY: There can be delays in adopting land use ordinances that are beyond the Permittee's ability to control, such as a SEPA challenge or litigation. Paragraph (3) above is intended to avoid either the Permittee not complying with the permit or Ecology being required to conduct a permit modification process through no fault of either party.]

- vi. No later than 12-24 months after the effective date of this permit, the program must establish legal authority within the limits of state and federal law, through approval of new development, to inspect private stormwater facilities and enforce maintenance standards.

[NOTE TO ECOLOGY: 12 months is insufficient time to produce new ordinance and manuals through the required municipal public process. City process for approving new ordinances requires at least 4-6 months from the time the ordinance is drafted and submitted to final approval. (1) Requirement in v.(1) gives 8 months to have final drafts ready for Ecology review, which means bulk of stakeholder review and comment must have been completed prior to that time; (2) 60 day period after Ecology completes review for final public comment and City Council approval is insufficient time for public notice, SEPA, and GMA requirements to be met.]

- vii. No later than 18-24 months after the effective date of this permit, the program must include a process of permits, plan review, inspections, and enforcement capability designed to meet the following standards for both private and public projects, using *qualified personnel* (staff or qualified contractors):

- (1) Review all stormwater site plans submitted to Permittee for proposed development activities involving land disturbing activity that meet the thresholds in Appendix 1 or Ecology-approved alternative equivalent thresholds.
- (2) Inspect prior to clearing and construction, all permitted development sites involving land disturbing activity that meet the thresholds in Appendix 1 or Ecology-approved alternative equivalent thresholds and that ~~are hydraulically near a sediment/erosion sensitive feature or~~ have a high potential for sediment transport as determined through plan review based on definitions and requirements in Appendix 2, which is by this reference as if set forth fully herein to determine appropriate temporary erosion and sediment control requirements.
Or, as an alternative to the above, inspect all development sites involving land disturbing activity that meet the threshold in Appendix

1 1 (or Ecology-approved alternative equivalent thresholds) prior to
2 issuing a final development permit to determine appropriate temporary
3 erosion and sediment control requirements.

4 (3)-After notice from the developer that land disturbing activity has
5 begun, iInspect all permitted development sites involving land disturbing
6 activity that meet the threshold in Appendix 1 or Ecology-approved
7 alternative equivalent thresholds. during construction to ~~ensure-enforce~~
8 proper installation and maintenance of required erosion and sediment
9 controls. Enforce as necessary based on the inspection. This inspection
10 may be combined with other inspections provided it is still performed by
11 qualified personnel (staff or contractors).

12 [NOTE TO ECOLOGY: The City can inspect and enforce where necessary, but cannot
13 ensure the actions of others.]

14 (4) Inspect all development sites, involving land disturbing activity that
15 meet the threshold in Appendix 1 or Ecology-approved alternative
16 equivalent thresholds, upon completion of construction and prior to
17 final approval/occupancy to ensure proper installation of permanent
18 erosion controls and stormwater facilities/BMPs. Enforce as necessary
19 based on the inspection. Also, ~~ensure-require~~ applicant to complete a
20 maintenance plan ~~is-completed~~ and assign responsibility for
21 maintenance. ~~is-assigned.~~ This inspection may be combined with other
22 inspections provided it is still performed by qualified personnel (staff
23 or contractors).

24 (5) Compliance with the inspection requirements of S7.C.5.(b)vii.(1),(2),
25 (3), and (4), above shall be determined by the presence of an
26 established inspection program designed to inspect all sites involving
27 land disturbing activity that meet the threshold in Appendix 1 or
28 Ecology-approved alternative equivalent thresholds.

29 (6) Each Permittee shall ~~track-document~~ and maintain records of ~~all~~
30 inspections and enforcement.

31 viii. No later than the effective date of this permit, the Permittee must make
32 available ~~provide~~ the "Notice of Intent for Construction Activity" and/or
33 copies of the "Notice of Intent for Industrial Activity" to representatives of
34 proposed new development and redevelopment upon their request.
35 Permittees will continue to enforce local ordinances controlling runoff
36 from construction sites that also require coverage under ~~the Industrial~~
37 ~~Stormwater General Permit and/or~~ the Construction Stormwater NPDES
38 General Permit.

39 [NOTE TO ECOLOGY: It seems inappropriate to incorporate requirements for industrial
40 stormwater NPDES general permits into this section.]

ix. Each permittee must provide *adequate training for staff* involved in Controlling Stormwater Runoff from New Development, Redevelopment, and Construction Sites, including permitting, plan review, construction site inspections, and enforcement, to carry out the provision of this program component.

6. Structural Stormwater Controls

- a. The SWMP shall include a program to ~~construct structural stormwater controls to address impacts to beneficial uses resulting from disturbances to watershed hydrology and reduce~~ stormwater pollutant discharges from existing development by retrofitting existing infrastructure to incorporate water quality improvement. This program shall consider impacts caused by stormwater discharges from areas of existing development, including runoff from highways, streets and roads owned or operated by the Permittee, ~~and areas of new development, where impacts are anticipated as development proceeds.~~ This program shall address impacts that are not adequately controlled by the other required actions of the SWMP, and shall ~~identify necessary actions~~ provide proposed projects and ~~an implementation construction~~ schedule.

The program shall ~~include~~ consider the construction of projects such as ~~regional flow control facilities,~~ water quality treatment facilities, ~~and~~ retrofitting of existing flood control facilities to provide water quality function. ~~Permittees should also consider other means to address impacts from existing development, such as reduction of hydrologic changes through the use of,~~ on-site (infiltration and dispersion) stormwater management BMPs, and site design techniques, ~~habitat acquisition or restoration of forest cover and riparian buffers, for compliance with this requirement.~~ Permittees may not use in-stream culvert replacement projects for compliance with this requirement.

[NOTE TO ECOLOGY: (1) Flow control and habitat requirements are not appropriate to a water quality- based permit. (2) The proposed changes attempt to clearly distinguish the structural stormwater controls required in this section from those required under section 5 (controlling runoff from new and redevelopment). Public road improvement projects that trigger stormwater treatment requirements under Seattle Code are covered in Section 5. Suggest modifying language in Section 6 to apply only to projects that retrofit existing infrastructure or the purpose of improving water quality and leave Section 5 to cover new development (either private or public projects that involve roads). This change would eliminate potential confusion and allow Section 6 to focus entirely on retrofitting existing public infrastructure to improve water quality.]

b. Minimum Performance Measures:

- i. No later than 12 months after the effective date of this permit, each Permittee shall develop and begin implementing a Structural Stormwater Control program designed to construct capital project facilities that control stormwater impacts that are not adequately controlled by the other required actions of the SWMP. ~~The program shall include a description of~~

1 ~~projects and a construction schedule, for projects that are scheduled for~~
2 ~~implementation during the term of this permit. Permittees shall provide a~~
3 ~~list of proposed capital projects that are scheduled for implementation~~
4 ~~during the term of this permit. Updates and revisions to the CIP list will~~
5 ~~be provided in the annual report.~~

6 **[NOTE TO ECOLOGY: The CIP process precludes listing specific projects with definite**
7 **construction schedules. CIP programs are not static and continually change in response to**
8 **new information and budgets. Seattle updates its CIP program every 2 years, but changes**
9 **often occur within the 2-year period.]**

- 10 ii. Each Permittee shall include a description of the Structural Stormwater
11 Control Program in the written documentation of their SWMP that must
12 be submitted with the first year annual report. The description of the
13 Structural Stormwater Control Program must include the following:
- 14 • The goals that the Structural Stormwater Control Program are intended
15 to achieve.
 - 16 • The planning process used to develop the Structural Stormwater
17 Control Program, including: the geographic scale of the planning
18 process, the issues and regulations addressed, the steps in the planning
19 process, the types of characterization information considered, the
20 amount budgeted for implementation, and the public involvement
21 process.
- 22
- 23 iii. For individual projects, provide the following information:
- 24 • The estimated pollutant load reduction that will result from each
25 project designed to provide stormwater treatment.
 - 26 • ~~The expected outcome of each project designed to provide flow~~
27 ~~control.~~
 - 28 • Any other expected environmental benefits.

29 **[NOTE TO ECOLOGY: Flow control performance not appropriate to this permit.]**

- 30 iv. Information about the Structural Stormwater Control Program shall be
31 updated with each annual report.
- 32

33 7. Source Control Program

- 34 a. The SWMP shall include a program to reduce pollutants in runoff from areas
35 that discharge to municipal separate storm sewers owned or operated by the
36 Permittee. The program shall include the following elements within the limits
37 of local, state and federal law, and implemented by the minimum performance
38 measures below:
- 39 i. Requiring application of operational and structural source control BMPs,
40 and, if necessary, treatment BMPs to pollution generating sources associated

with existing land uses and activities, to the extent allowed by state or federal law.

[NOTE TO ECOLOGY: Seattle would like the requirement to impose structural source control and/or treatment BMPs on existing land uses be clearly bounded by the last phrase.]

- ii. Inspections of pollutant generating sources at commercial, industrial and multifamily properties to ~~ensure-enforce~~ implementation of required BMPs to control pollution discharging into municipal separate storm sewers owned or operated by the Permittee.
- iii. Application and enforcement of local ordinances at ~~all~~ applicable sites, including those with industrial stormwater general NPDES permit coverage. Ecology and the permittee shall coordinate inspection and enforcement of source control requirements for Municipalities may refer stormwater discharge problems associated with violations of local ordinances only after implementing progressive enforcement as required in S7.C.7.b.iv, below. Municipalities may not refer stormwater discharge problems discharges associated with industrial NPDES Permittees to Ecology if the Permittee has local ordinances that impose stricter standards than imposed through the permit issued by Ecology. Permittees that are in compliance with the terms of this permit ~~will~~shall not be held liable by Ecology for water quality standard violations or receiving water impact caused by industries covered under an NPDES permit issued by Ecology.

[NOTE TO ECOLOGY: (1) The permit should not specifically prohibit municipalities from referring enforcement problems to Ecology until certain other actions—with associated time delays—have been completed. (2) The decision of when Ecology should become involved with local enforcement should rest with the regional office.

- iv. Reduction of pollutants associated with the application of pesticides, herbicides, and fertilizer discharging into municipal separate storm sewers owned or operated by the Permittee.
- b. Minimum Performance Measures for Source Control Program:
- i. No later than ~~12-24~~ months after the effective date of this permit, adopt and begin enforcement of an ordinance requiring the application of source control BMPs for pollutant generating sources associated with existing land uses and activities (See Appendix 3, to identify pollutant generating sources), within the limits of state and federal law. The local source control requirements must include operational and structural source control BMPs that, when used on ~~a sites, specific basis,~~ will protect water quality, reduce the discharge of pollutants to the maximum extent practical, and satisfy the state requirement under chapter 90.48 RCW to apply all known, available, reasonable methods of prevention, control and treatment (AKART) prior to discharge. ~~Permittees must document the stormwater source control BMP~~

1 ~~selection process for different urban land uses, the types of BMPs and~~
2 ~~design criteria for those BMPs, the technical basis and an assessment of how~~
3 ~~the practices will protect water quality, reduce the discharge of pollutants to~~
4 ~~the maximum extent practical, and satisfy the state AKART requirements.~~
5 Permittees may choose to use the source control BMPs in Volume IV of the
6 2001-2005 Stormwater Management Manual for Western Washington, or
7 use source control BMPs determined by Ecology in writing to be equivalent
8 to those contained in Volume IV of the 2005 Stormwater Management
9 Manual for Western Washington. More stringent requirements may be used
10 and/or certain requirements may be tailored to local circumstances through
11 the use of basin plans or other similar water quality and quantity planning
12 efforts. Such local requirements and thresholds must provide similarly
13 protective levels of pollutant control as compared with Volume IV. If the
14 demonstration approach for equivalency is chosen, the Permittee must
15 submit the proposed source control program and all necessary
16 documentation to Ecology for review, no later than 9-18 months after the
17 effective date of this permit. If Ecology does not request changes within 30
18 days, the proposed source control BMPs are considered approved.

19 [NOTE TO ECOLOGY: Because source control BMPs and related ordinances are tied to
20 our Stormwater Code, the change in deadlines has been adjusted to match the proposal
21 from S7.C.5.]

22 Permittee's program shall be designed to require ~~Operational~~ source
23 control BMPs ~~shall be required~~ for all pollutant generating sources and:
24 Structural source control BMPs ~~shall be required, to the extent allowed~~
25 by within the limits of state and federal law, for pollutant generating sources
26 if the permittee determines that operational controls are not effective,
27 resulting in that cause an illicit discharge or other pollution problem,
28 including: causing or contributing to a violation of surface water, ground
29 water, or sediment management standards; nuisance; or threat to public
30 health and safety, ~~because of inadequate stormwater controls.~~
31 Implementation of source control requirements may be done through
32 education and technical assistance programs, provided that formal
33 enforcement authority is available to the Permittee and is used as determined
34 necessary by the permittee.

35 [NOTE TO ECOLOGY: Allow permittees the flexibility to apply operational controls
36 before requiring structural controls for existing businesses. Seattle inspectors typically
37 work with businesses to implement appropriate operational controls first. Structural
38 controls are usually only required when operational controls fail to adequately control
39 discharges from the site.]

40 i. ii.—No later than 12 months after the effective date of this permit,
41 compile a list of existing commercial, multifamily, industrial and
42 government sites which are potentially pollution generating (see

Appendix 3 for identifying sites). The list shall be updated no later than 180 days prior to the expiration date of this permit.

[NOTE TO ECOLOGY: Recommend allowing estimation methods to determine the numbers of potentially pollutant generating sites for the inspection program. Seattle has used different sources to identify business operating in the City (e.g., county business license records, SPU ratepayer records, and business lists purchased from vendors). None of these lists is very accurate (about 20-25 percent error), presumably due to high turnover rates. Seattle currently purchases a list from a vendor immediately before beginning inspections in a specific geographic area to minimize the number of list errors. Inspectors then survey the area to update the list and develop an approach for inspections. Developing a citywide list at a specific point in time as currently specified in the permit would be time consuming and expensive and not particularly useful since the list would become obsolete within a few years. It is recommended that permittees be allowed to use estimation techniques (e.g., extrapolating from a representative area to estimate citywide numbers) to determine the numbers of businesses that require inspections.]

- iii. Starting no later than 24 months after the effective date of this permit, ~~conduct~~begin an inspection program, implemented within the limits of state and federal law, for all the listed sites, with adequate enforcement capability to ~~ensure~~require implementation of source control BMPs in accordance with the ordinance required in S7.C.8.b.i., above. 60% of the total of the listed properties must be inspected within 5 years of the effective date of the permit, provided that a portion of the inspections must be conducted during each ~~subsequent~~ year of the permit term. The inspection program shall be designed to inspect all sites, to the extent allowable under state and federal law, once every 8 years. Adjust the inspection program as needed to incorporate new sites added to the list and reflect sites already inspected.
- iv. No later than 24 months after the effective date of this permit, each Permittee shall implement a progressive enforcement policy, within the limits of state and federal law, to ~~ensure that~~require facilities ~~are brought to come~~ into compliance with stormwater requirements within a reasonable time period as specified below:

- (1) In the event that a Permittee determines, based on an inspection conducted above, that a site has failed to adequately implement ~~all~~ the required necessary BMPs, ~~that the~~ Permittee shall take progressive enforcement action which, at a minimum, shall include a follow up inspection within ~~4-6~~ weeks from the date of the initial inspection, or other time period as specified in the corrective action letter.

1 [NOTE TO ECOLOGY: Depending on the extent of corrective actions required, Seattle
2 inspectors sometimes allow more time to enable the business adequate time to make the
3 requested improvements.]

4 (2) When a Permittee determines that a facility has failed to adequately
5 implement BMPs after a follow-up inspection, that Permittee shall
6 take further enforcement action as established through authority in
7 its municipal code and ordinances, or through the judicial system.

8 (3) Each Permittee shall maintain records, including documentation of
9 each site visit, inspection reports, warning letters, notices of
10 violations, and other enforcement records, demonstrating a good
11 faith effort to bring facilities into compliance. Each permittee shall
12 also maintain records of sites that are not inspected because the
13 property owner or operator denies entry.

14 (4) Permittees will coordinate enforcement of local source control
15 requirements with Ecology as the Permittee deems necessary. A
16 Permittee may request assistance from Ecology to enforce against
17 refer violations of local ordinances, to Ecology provided that the
18 Permittee has made a good faith effort of progressive enforcement.
19 However, where appropriate, the Permittee will put forth a good
20 faith effort to address a violation of local ordinances before referring
21 the problem to Ecology. At a minimum a The Permittee's good faith
22 effort ~~must~~ will include documentation of:

- 23 • Two follow-up inspections, and
- 24 • Two warning letters or notices of violation

25 [NOTE TO ECOLOGY: Seattle agrees that referrals to Ecology should not be made until a
26 good faith effort is made by the Permittee to achieve compliance with source control
27 requirements. Intent is (1) not to restrict Ecology and permittees in how and when they
28 coordinate enforcement activities, particularly when a timely response is needed; (2) leave
29 the decision-making at the local permittee and regional Ecology level. SPU inspectors
30 typically issue an NOV and then work through the appeals process to achieve compliance.
31 The NOV is usually not issued until at least 2 follow-up inspections (and often more) have
32 been completed and the business has failed to implement the required improvements or if
33 the problem is so egregious that a NOV is considered to be warranted immediately. If
34 corrective actions required in the NOV are not carried out, SPU inspectors refer the case to
35 their law department to begin legal proceedings.]

- 36
- 37 ■ An inspection, including a written letter outlining the problems, required corrective
38 actions, and a deadline for achieving compliance and

- A NOV that is not resolved after the time period stated in the notice or within 30 days, whichever is greater.

v. No later than 12 months after the effective date of this permit, ~~adopt~~ create and implement policies and procedures to reduce pollutants associated with the application of pesticides, herbicides, fungicides, and fertilizer on all public property owned or ~~managed-operated~~ by the Permittee, including parks and road right-of-ways. The program shall include the following, at a minimum:

- (1) Identify and ~~quantify~~ document all pesticides, herbicides, fungicides, and fertilizer used by the Permittee for operating and maintaining facilities owned or operated by the Permittee;

[NOTE TO ECOLOGY: (1) Need a closer review, because this section treats pesticides with fertilizers the same, which may not be appropriate. (2) The intent behind this requirement and how the data will be used is unclear. Need to get clarity on the requirement to “identify and quantify all...” Quantify in terms of storage levels? Application rates? Annual average or daily?]

- (2) Identify usual application practices of each listed product~~-,~~ including location, timing, and application rates;

- (3) Develop and implement procedures that direct applicators to apply pesticides, herbicides, fungicides, or fertilizers in accordance with manufacturer’s directions to prevent these materials from washing off the treated area and degrading stormwater quality.

[NOTE TO ECOLOGY: In part, this rewrite is needed because some pesticides, fertilizers, etc. are designed to be applied immediately before or immediately after a rain event. Best to simply refer to manufacturer’s directions, ~~which are a requirement for licensed applicators.~~

- (4) Implement procedures that require staff ~~Ensure that staff~~ applying pesticides or herbicides ~~are certified to be licensed~~ by the Washington State Department of Agriculture or supervised by someone who is licensed;

- (5) Implement procedures to use and manage herbicides, pesticides, fungicides, and fertilizer consistent with the adopted source control BMPs.

vi. Provide a minimum of two training sessions regarding the source control ordinance, inspection procedures and source control BMPs, for inspection and other appropriate field staff, to facilitate adequate implementation of the source control program. The first training shall be conducted no later than

24 months after the effective date of this permit. The second training shall be conducted no later than 48 months after the effective date of this permit.

8. Illicit Connections and Illicit Discharges Detection and Elimination

- a. The SWMP shall include an ongoing program to detect, remove and prevent illicit connections and illicit discharges, including spills, into the municipal separate storm sewers owned or operated by the Permittee. The regulatory program shall include elements aimed at:

- i. ~~Effectively Prohibiting by ordinance prohibiting all types of~~ illicit discharges to the municipal separate storm sewers owned or operated by the Permittee other than those authorized under a separate NPDES permit. The categories of non-stormwater discharges listed in Appendix 4 must be addressed only if identified by the Permittee as a significant contributor of ~~pollution~~ pollutants to the MS3s owned or operated by the Permittee. The Permittee shall develop and implement procedures to identify, and where appropriate, address through further municipal regulations, enforcement, or management activities pollutants from such non-stormwater discharges. As necessary, the Permittee(s) shall incorporate appropriate control measures in the stormwater management program to ensure the non-stormwater discharges listed in Appendix 4 are not sources of pollutants to waters of the state.

[NOTE TO ECOLOGY: (1) Permittees cannot “ensure” that non-stormwater discharges are not sources of pollutants to waters of the state, (2) many of the discharges listed in Appendix 4 are outside the Permittees’ control and certainly beyond local regulatory authority (e.g., rising ground water, flow from riparian habitats and wetlands, springs). Seattle has implemented procedures to control discharges from sources that can be addressed under City regulatory authority. For example, Seattle Public Utilities is coordinating with the Department of Planning and Development to identify private development sites that contain contaminated groundwater that could be discharged to city-owned storm drains through construction dewatering operations and the eventual building footing drains. When developers identify that dewatering will be necessary, these permit applications are reviewed to determine whether groundwater can be discharged to an existing storm drain system or whether it must be discharged to the sanitary sewer. In some cases, dual systems are installed to initially discharge contaminated dewatering fluids to the sanitary sewer. Then as excavation progresses and the contaminant source is removed (and confirmed by monitoring), the discharge can be diverted to the storm drain system.]

- ii. Detecting and ~~eliminating~~ prohibiting illicit connections to municipal separate storm sewers owned or operated by the Permittee.
- iii. On-going identification of illicit discharges into the municipal separate storm sewer system, through inspections, monitoring and complaint response.

- iv. Preventing, responding to, and if necessary implementing regulatory enforcement action related to cleaning up illicit discharges into the municipal separate storm sewers owned or operated by the Permittee.

[NOTE TO ECOLOGY: Cleanup of any damage caused by the illicit discharge should be the responsibility of the discharger, not the permittee.]

b. Minimum Performance Measures:

- i. No later than the effective date of this permit, each Permittee must continue implementing an on-going program to prevent, identify and respond to illicit connections and illicit discharges within the limits of state and federal law. The program shall include adopting establishing procedures for reporting and correcting or removing illicit connections, spills and other illicit discharges when they are suspected or identified. ~~The program shall also include procedures for controlling pollutants entering the MS4 from an interconnected, adjoining MS4.~~ Illicit connections and illicit discharges shall be identified through field screening, inspections, complaints/reports, construction inspections, maintenance inspections, source control inspections, and/or monitoring information, as appropriate.
- ii. Each Permittee shall provide appropriate training for municipal field staff determined by the permittee who are to be responsible for identification, investigation, termination, cleanup, and reporting illicit discharges, including spills, improper disposal and illicit connections. Training shall be completed no later than 12 months after the effective date of this permit. Refresher training shall be conducted on an annual basis thereafter.
- iii. All appropriate municipal field staff as identified by the Permittee, which as part of their normal job responsibilities might come into contact with or otherwise observe an illicit discharge or illicit connection to the storm sewer system shall be trained on the identification of an illicit discharge/connection and on the proper procedures for reporting the illicit discharge/connection. Initial training shall be completed no later than two years from the effective date of this permit. Permittees shall conduct refresher training on an annual basis thereafter.
- iv. Each Permittee shall initiate a program to develop and maintain a map of ~~all~~ connections to the municipal separate storm sewer authorized or allowed by the permittee. Each Permittee shall map connections to the municipal separate storm sewer according to the following schedule:

City of Seattle and City of Tacoma: ~~second~~fourth year annual report

Snohomish, King, Pierce and Clark Counties: one half the area of the County within urban growth boundaries and urbanized areas in the 4th year annual report

1 [NOTE TO ECOLOGY: Mapping of all connections to the municipal separated
2 stormwater system is a large task. New connections are typically tracked by development
3 permits, but SPU currently has a backlog of about 3,500 permits dating back to 2003 that
4 have not yet been entered into the GIS system. Time to accomplish this task may be 1-3
5 years and represent significant financial resources. In addition, historical connections may
6 not have been accurately recorded. The City has been updating its GIS coverages to
7 correct errors and omissions, but has focused on the mainlines rather than the side sewer
8 lines. The level of effort needed to error check the side sewer lines is not known. Seattle
9 requests that the time line on this work be extended to 4 years.]

10 v. Each Permittee shall continue to provide a publicly listed water quality
11 citizen complaints/reports telephone number. This program shall be in place
12 no later than the effective date of this permit. Complaints shall be
13 responded to in accordance with S7.C.8.b.vii. and ix., below.

14 vi. Each Permittee shall conduct on-going screening for illicit connections,
15 including indicator monitoring, and tracking discharges to the source. The
16 Permittee shall conduct an ongoing program to identify illicit connections.

17 (1) ~~(4)~~—City of Seattle and City of Tacoma shall schedule the screening
18 for illicit ~~discharges-connections~~ with the goal that such that ~~all of~~
19 the City's municipal separate storm sewers are screened at least once
20 during the term of this permit.

21 [NOTE TO ECOLOGY: (1) Given the magnitude of the effort to screen all of the separate
22 storm drains in the City for illicit connections (Seattle operates and maintains an estimated
23 460 miles of municipal storm drain mainlines), it is recommended that the schedule for
24 completing the work be extended. Suggest using similar approach to the business
25 inspection effort (e.g., complete 60 percent within the 5-year permit period). Ongoing
26 screening once the initial sweep is completed should focus on only those sites that are issued
27 a side sewer permit in subsequent years. (2) Because illicit discharges are sporadic (e.g.,
28 spills, direct discharges) and often occur during non-business hours, they are difficult to
29 track using field screening techniques. Seattle generally responds to complaints received
30 on its hotline number from the public and other agencies to control illicit discharges. Field
31 screening techniques are more applicable to identifying illicit connections where discharges
32 occur on a more frequent basis.]

33
34 (2) Snohomish, King, Pierce and Clark Counties shall schedule the
35 screening program such that all the municipal separate storm sewers
36 located in one half the area of the County within urban growth
37 boundaries and urbanized areas are screened during the term of this
38 permit.

39 vii. Screening for illicit ~~discharges-connections~~ shall be conducted using one or
40 more of the methods listed below:

41 (1) The field screening method in 40 CFR 122.26(d)(1)(iv).

(2) Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessments, Center for Watershed Protection, October 2004.

(3) Other alternative methods that have been approved by Ecology.

viii. Response to Illicit Connections

(1) Investigation: Upon discovery or upon receiving a report of a suspected illicit connection, Permittees shall initiate an investigation within 21 days, to determine the source of the connection, the nature and volume of discharge through the connection, and the responsible party for the connection.

(2) Termination: Upon confirmation of the illicit nature of a storm drain connection, Permittees shall ~~use their enforcement authority and work with the property owner in a documented effort to eliminate the illicit connection within 180 days. ensure termination of the connection within 180 days, using enforcement authority as needed.~~

[NOTE TO ECOLOGY: Unlike water or electric services, Permittees often cannot force a connection to be terminated, and even inspection authority may not be present due to state law.]

ix. Each Permittee, no later than 6 months after the effective date for this permit, shall develop and implement procedures to ~~prevent~~ investigate, respond to, and, if deemed appropriate, clean up spills and improper disposal into municipal separate storm sewers owned or operated by the Permittee. ~~Under these procedures~~ shall require that each Permittee shall also investigate problems/violations it judges to be urgent or severe, within 24 hours of being notified that a problem/ violation exists. investigate, within 7 days on average, any complaints/reports or monitoring information that indicates a potential illicit discharge, including a spill or illegal dumping. Permittees shall also investigate as soon as possible, within 24 hours, those problems/violations judged to be urgent or severe, or reported as emergencies.

[NOTE TO ECOLOGY: Believe the intent of paragraph ix regards actions after spills/improper disposal and not procedures “to prevent.” Seattle Public Utilities receives water quality complaints from two sources, the complaint line for the general public that is maintained during business hours and operations control center (OCC) dispatch, which is operated 24 hours a day, 7 days a week and receives calls from City and other agency staff. OCC refers spills to SPU spill coordinators that are on call 24-7. The complaint line refers callers to the OCC for emergency situations (and provides guidance on what is considered an emergency). However, callers may not always call the OCC. Consequently, SPU may

not immediately learn of a problem, particularly for spills that occur during non-business hours.]

- x. Each Permittee shall track and maintain records of the illicit discharge detection and elimination program, including documentation of inspections, complaint/spill response and other enforcement records.

9. Operation and Maintenance Program

- a. The SWMP shall include a program to regulate maintenance activities and to conduct maintenance activities by the Permittee that prevent or reduce stormwater impacts. The program shall include elements aimed at:
 - i. Maintenance standards and programs ~~to ensure~~ for proper and timely maintenance of public and private stormwater facilities.
 - ii. Practices for operating and maintaining ~~public~~ Permittee's streets, roads, and highways to reduce stormwater impacts.
 - iii. Policies and procedures to reduce pollutants associated with the application of pesticides, herbicides, and fertilizer by the Permittee's agencies or departments.
 - iv. Practices for reducing stormwater impacts from *heavy equipment maintenance or storage yards*, and from *material storage facilities* owned or operated by the Permittee.

b. Minimum Performance Measures:

- i. Maintenance Standards. No later than 12-24 months after the effective date of this permit, each Permittee must establish maintenance standards that are ~~as protective or more protective than~~ determined by Ecology to be equivalent to those specified in Chapter 4 of Volume V of the 2005 Stormwater Management Manual for Western Washington. The Permittee shall submit proposed standards for Ecology review and approval. More stringent requirements may be used, and /or certain requirements may be tailored to local circumstances through the use of basin plans or other water quality and/or quantity planning efforts. Such local requirements must provide similarly protective levels of pollutant control as compared to Chapter 4 of Volume V of the 2005 Stormwater Management Manual for Western Washington.

[NOTE TO ECOLOGY: The 24 month implementation date aligns this requirement with S7.C.5 and S7.C.7, all now tied to revised City Stormwater Code and Technical Manuals.]

The facility-specific maintenance standards are intended to be conditions for determining if maintenance actions are required as identified through inspection. They are not intended to be measures of the facility's required condition at all times between inspections. Exceeding these conditions at

any time between inspections and/or maintenance does not ~~automatically~~ constitute a violation of these standards. However, based upon inspection observations, the inspection and maintenance schedules shall be adjusted to minimize the length of time that a facility is in a condition that requires a maintenance action. These standards are violated when an inspection identifies a required maintenance action, and that action is not performed ~~in a timely manner, for example,~~ within 90 days for typical maintenance, within 6 months for revegetation, and within 1 year for maintenance that requires capital construction of less than \$25,000.

ii. Maintenance of stormwater facilities regulated by the Permittee

- (1) No later than ~~6-24~~ months after the effective date of this permit, each Permittee shall update existing ordinances or other enforceable documents requiring maintenance of all permanent stormwater treatment and flow control facilities regulated by the Permittee, in accordance with maintenance standards established under S7.C.9.b.i, above.

[NOTE TO ECOLOGY: The 24 month implementation date aligns this requirement with S7.C.5 and S7.C.7, all now tied to revised City Stormwater Code and Technical Manuals.]

- (2) No later than ~~24~~ months after the effective date of this permit, each Permittee shall develop and implement an initial inspection schedule for all ~~known, permanent~~ stormwater treatment and flow control facilities regulated by the Permittee ~~to that ensures inspection of~~ each facility at least once during the term of this permit to enforce compliance with adopted maintenance standards as needed based on the inspection. The Permittee shall compile a list of known stormwater treatment and flow control facilities once during the permit term.

- ~~(3)~~ No later than 48 months after the effective date of this permit, each Permittee shall develop an on-going inspection schedule for implementation after the initial schedule, ~~to annually to ensure annual inspections of~~ all ~~known, permanent~~ stormwater treatment and flow control facilities regulated by the Permittee. The annual inspection schedule may be changed to a lesser or greater frequency of inspection, as deemed by Permittee to be appropriate ~~to ensure for compliance with~~ maintenance standards, based on maintenance records of double the length of time of the proposed inspection frequency.

- (4) No later than 24 months after the effective date of this permit each Permittee shall manage maintenance activities to inspect all new permanent stormwater treatment and flow control facilities in new

residential developments every 6 months during the period of heaviest house construction (i.e., 1 to 2 years following subdivision approval) to identify maintenance needs and enforce compliance with maintenance standards as needed.

- (5) Compliance with the inspection requirements of S7.C.9.b.ii.(2),(3), and (4), above, shall be determined by the presence of an established inspection program designed to inspect such all sites.

iii. Maintenance of stormwater facilities owned or operated by the Permittee

- (1) No later than 24 months after the effective date of this permit each Permittee shall begin implementing a program to inspect all permanent stormwater treatment and flow control facilities owned operated by the Permittee (as determined by compiled by Permittee) annually and take-implement appropriate maintenance action in accordance with adopted maintenance standards. The annual inspection schedule may be changed to a lesser or greater frequency of inspection as deemed by Permittee to be appropriate to ensure compliance withfor maintenance standards based on maintenance records of double the length of time of the proposed inspection frequency.
- (2) No later than 24 months after the effective date of this program each Permittee shall begin implementing a program to conduct spot checks of potentially damaged known, permanent treatment and flow control facilities owned or operated by Permittee after major storm events (if not defined in Manual, >25-yr, 24 hr event). If spot checks indicate widespread damage/maintenance needs, Permittee will initiate a program to inspect all such stormwater treatment and flow control facilities that may be affected and to- ~~c~~Conduct repairs or take appropriate maintenance action in accordance with maintenance standards established under S7.C.9.b.i, above, based on the results of the inspections.
- (3) Compliance with the inspection requirements of S7.C.9.b.iii.(1) and (2), above, shall be determined by the presence of an established inspection program designed to inspect all such sites.

iv. Catch Basin Maintenance

- (1) No later than 24 months after the effective date of this permit each Permittee shall begin implementing a program to annually inspect catchbasins and inlets owned or operated by the Permittee. Inspections may be conducted on a “circuit basis” whereby a sampling of catchbasins and inlets within each circuit is inspected to identify maintenance needs. Include in the sampling an inspection of the catchbasin immediately upstream of any system outfall. Clean all catchbasins within a given circuit at one time if the inspection

sampling indicates cleaning is needed to comply with maintenance standards established under S7.C.9.b.i, above. As an alternative to inspecting catchbasins on a “circuit basis,” the Permittee may inspect all catchbasins, and clean only catchbasins where cleaning is needed to comply with maintenance standards. The disposal of decant water shall be in accordance with the requirements in Appendix 7, which is by this reference as if set forth fully herein.

[NOTE TO ECOLOGY: Seattle would appreciate clarity on this particular requirement, especially as to more detailed methodology on inspection of catchbasins on a “circuit basis”. As currently written, there can be significant variation on the interpretation of the language.]

(2) The Permittee shall require cleaning of private catchbasins and inlets whenever they are found to be out of compliance with adopted maintenance standards.

v. Records of inspections and maintenance or repair activities conducted by the Permittee shall be maintained.

vi. Establish practices to reduce stormwater impacts associated with runoff from ~~public~~-parking lots, ~~public~~-streets, ~~public~~-roads, highways, and road maintenance activities owned, operated -or conducted by the Permittee in the permit geographical area within ~~182~~ months of the effective date of this permit.

Implementation of practices shall begin no later than ~~24~~18 months after the effective date of this permit, and continue on an ongoing basis throughout the term of the permit. ~~The following~~Examples of activities include, but are not limited to: must be addressed:

- (1) Pipe cleaning
- (2) Cleaning of culverts that convey stormwater in ditch systems
- (3) Ditch maintenance
- (4) Street cleaning
- (5) Road repair and resurfacing, including pavement grinding
- (6) Snow and ice control
- (7) Utility installation
- (8) Maintaining roadside areas, including vegetation management.
- (9) Dust control
- (10) Pavement striping maintenance

vii. No later than ~~18~~12 months after the effective date of this permit each Permittee shall establish and implement policies and procedures to reduce pollutants in discharges from all lands owned or maintained by the Permittee

1 in the permit geographical area, including but not limited to: parks, open
2 space, road right-of-ways, maintenance yards, and at stormwater treatment
3 and flow control facilities. These policies and procedures must address may
4 include, but are not limited to:

- 5 • Application of fertilizer, pesticides, and herbicides, including the
6 development of an Integrated Pest Management Program
- 7 • Sediment and erosion control
- 8 • Landscape maintenance and vegetation disposal
- 9 • Trash management
- 10 • Building exterior cleaning and maintenance

11
12 viii. Conduct a minimum of 2 training sessions, during the term of the permit,
13 for appropriate employees of the Permittee whose construction, operations
14 or maintenance job functions may impact stormwater quality. The
15 Permittee shall identify target employees to participate in the training
16 sessions. Training shall address the importance of protecting water
17 quality, the requirements of this permit, operation and maintenance
18 standards, inspection procedures, selecting appropriate BMPs, ways to
19 perform their job activities to prevent or minimize impacts to water
20 quality, and procedures for reporting water quality concerns, including
21 potential illicit discharges. The first training session shall be completed no
22 later than 2 years after the effective date of this permit; the second training
23 session shall be completed no later than the end of the permit term.

24 ix. Develop and implement a Stormwater Pollution Prevention Plan (SWPPP)
25 for all *heavy equipment maintenance or storage yards*, and material
26 storage facilities owned or operated by the Permittee in the permit
27 geographical area, that are not covered under the Industrial Stormwater
28 General permit. The SWPPP is a documented plan to implement measures
29 to identify, prevent, and control the contamination of discharges of
30 stormwater to surface or ground water. The SWPPPs must be developed
31 within 18 months of the effective date of this permit. Implementation of
32 non-structural BMPs shall begin immediately after the pollution
33 prevention plan is developed. A schedule for implementation of structural
34 BMPs shall be included in the SWPPP. Generic SWPPs that can be
35 applied at multiple sites may be used to comply with this requirement.
36 The SWPPP shall include periodic visual observation of stormwater
37 outfalls and receiving water in close proximity of known stormwater
38 outfalls, during a storm event, discharges from the facility to evaluate the
39 effectiveness of BMPs.

1 [NOTE TO ECOLOGY: Outfalls and receiving waters near outfalls that may be a number
2 of miles from the facility itself and, therefore, visual inspections will not help evaluate BMP
3 effectiveness.]

4
5 10. Education Program

6 a. The SWMP shall include an education program aimed at an appropriate target
7 audience of residents, businesses, industries, elected officials, policy makers,
8 planning staff and other employees of the Permittee. The target audience and
9 education program is to be defined by the Permittee. The overall goal of the
10 education program is to reduce or eliminate behaviors and practices that cause
11 or contribute to adverse stormwater impacts to receiving waters. An education
12 program may be developed locally or regionally.

13 b. Minimum Performance Measures:

14 i. No later than 12 months after the effective date of this permit each Permittee
15 shall develop and begin implementation (or participate in) ~~in~~ of an education
16 program that uses different types of media (brochures alone are not
17 adequate), and to reach target audiences. ~~s a wide range of interest groups to~~
18 ~~provide education on the topics listed in iii, below.~~

19 ii. The education program may include, but is not limited to, shall address the
20 the following topics ~~and target audiences~~:

21 (1) Provide education opportunities ~~for all~~ target audiences about the
22 importance of improving water quality, reducing impervious surfaces
23 and protecting beneficial uses of waters of the state, about potential
24 impacts caused by stormwater discharges, and methods for avoiding,
25 minimizing, reducing and/or eliminating the adverse impacts of
26 stormwater runoff.

27 [(2) Provide and encourage participation in environmental stewardship
28 activities.

29 (3) Provide information ~~to the general public~~ about actions individuals can
30 take to improve water quality and reduce impervious surfaces (e.g.,
31 lawn care with less fertilizer and pesticides, more use of native
32 vegetation for landscaping, proper disposal of pet wastes, etc.).

33 (4) Provide information ~~to the general public~~ on proper use and disposal
34 of pesticides, herbicides, and fertilizers.

35 (5) Provide information ~~to engineers, construction contractors, developers,~~
36 ~~development review staff, and land use planners~~ on technical
37 standards, the development of stormwater site plans and erosion
38 control plans, and BMPs for mitigating contaminated runoff and the
39 quantity of runoff from development sites.
40

- (6) Provide information ~~to engineers, contractors, developers, and the public~~ on land development practices and non-structural BMPs, such as Low Impact Development, that eliminate, avoid, or minimize adverse stormwater impacts.
- (7) Provide information to explain the definition and impacts, and educate on the promote removal of illicit ~~discharges~~ connections.
- (8) Provide information to promote proper management and disposal of toxic materials (e.g., used oil, batteries, vehicle fluids, home chemicals.)
- (9) Provide source control information ~~to commercial target audiences~~ in coordination with the source control inspection program.
- iii. Each Permittee shall develop and implement a public education and outreach program designed to reach ~~100% of the~~ defined target audiences ~~identified in S7.e.10.b.ii., above,~~ within their jurisdiction, by the expiration date of this permit.

[NOTE TO ECOLOGY: We would like to have the ability to define a specific target audience and accept the risk of not reaching 100 percent rather than defining the target audience too narrowly. It is also problematic to verify a program has been designed to reach 100 percent of target audience, because so doing could require we account for all forms of communications (print, radio, television, mass mailing, internet, public forums, others) to all cultures in all socio-economic-political conditions in all languages for all ages within City limits without including transient and mobile target audiences.]

- iv. Each permittee shall track and maintain records of public education activities.

S8. STORMWATER MANAGEMENT PROGRAM FOR CO-PERMITTEES AND SECONDARY PERMITTEES

A. Each Co-Permittee and Secondary Permittee shall implement a stormwater management program (SWMP) during the term of this permit. For the purpose of this permit a SWMP for a Co-Permittee or Secondary Permittee is a set of actions and activities comprising the components in this Special Condition as outlined below. The SWMP shall also include any additional controls identified in Appendix 6 of this permit which are necessary to meet applicable TMDL requirements.

1. S8.B Coordination, and S8.C Legal Authority are applicable to all Co-Permittees and Secondary Permittees covered under this permit.
2. S8.D is applicable only to Port Districts Covered under this Permit.
3. S8.E is applicable only to King County as a Co-Permittee with the City of Seattle for MS4s owned by King County but located within the City of Seattle.

4. S8.F is applicable all other Secondary Permittees excluding Port Districts.

B. Coordination

The SWMP for all Co-Permittees and Secondary Permittees shall include mechanisms among Permittees, Co-Permittees, and Secondary Permittees to encourage coordinated stormwater-related policies, programs and projects within a watershed and interconnected municipal separate storm sewers. Where relevant and appropriate, the SWMP shall also include coordination among departments within each jurisdiction to ~~ensure compliance~~ comply with the terms of this permit.

No later than 6 months after receiving coverage under this permit the SWMP shall provide for appropriate coordination with the City and County in which the Secondary Permittee or Co-Permittee is located.

C. C.—Legal Authority

[NOTE TO ECOLOGY: This should be edited like S7.C.1, based on federal rule.]

To the extent allowable under state and federal law, all Co-Permittees and Secondary Permittees must be able to demonstrate that they can, shall operate pursuant to adequate legal authority established by statute, ordinance, permit, contracts, orders, interagency agreements, or similar means, within the limits of state and federal law and municipal authority, which authorizes or enables the Secondary Permittee and Co-permittee to: ~~control discharges to and from municipal separate storm sewers owned or operated by the Secondary Permittee.~~

~~This legal authority, which may be a combination of statute, ordinance, permit, contracts, orders, interagency agreements, or similar means, shall include the ability to:~~

1. Control through ordinance, order or similar means, the contribution of pollutants to municipal separate storm sewers owned or operated by the Co-Permittee or Secondary Permittee from stormwater discharges associated with industrial activity, and control the quality of stormwater discharged from sites of industrial activity, and control the quality of stormwater discharged from sites of industrial activity into the Permittees municipal separate storm sewer
2. Prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer owned or operated by the Co-Permittee or Secondary Permittee;
3. Control through ordinance, order or similar means, the discharge of spills and the dumping or disposal of materials other than stormwater into the municipal separate storm sewers owned or operated by the Co-Permittee or Secondary Permittee;
4. Control the contribution of pollutants from one portion of the municipal separate storm sewer system to another portion of the municipal separate storm sewer system by coapplicants;

5. Require compliance with conditions in ordinances, permits, contracts, or orders; and,
6. Within the limitations of state and federal law, cCarry out inspection, surveillance, and monitoring procedures necessary to determine compliance ~~and non-compliance with permit conditions, including the prohibition on illicit discharges to the municipal separate storm sewer~~ with Co-Permittee and Secondary Permittee directives made under this section.

D. Stormwater Management Program for Port Districts:

1. Gathering, Maintaining, and Using Adequate Information. The SWMP shall include an ongoing program for gathering, maintaining, and using adequate information to conduct planning, priority setting, and program evaluation activities for Port-owned properties.

Minimum Performance Measures. The following information will be gathered and retained:

- a. Mapping of known municipal separate storm sewer outfalls, and maps depicting land use for property owned by the Port district, and all other properties served by municipal separate storm sewers owned or operated by the Port. The mapping shall be completed within 18 months of receiving coverage under this permit.
- b. Mapping of tributary conveyances, and the associated drainage areas of *major municipal separate storm sewer outfalls*, will be completed within 2 years of the effective date of this permit.
- c. Each Port shall make available to Ecology, upon request, GIS data layers depicting outfall locations, land use, tributary conveyances and associated drainage areas of major outfalls. GIS data shall be submitted in the format specified by Ecology at:
<http://www.ecy.wa.gov/services/gis/data/standards.htm>.
- d. No later than 18 months after receiving coverage under this permit, develop and implement a program to maintain operation and maintenance records for stormwater management facilities, indicating the date, what actions were taken and where wastes were disposed of. The information shall be available for inspection.
- d. Upon Request, mapping information and operation and maintenance records shall be provided to the City or County in which the Port is located.

2. Source Control in Eexisting Developed Areas. The SWMP shall include a program to address impacts caused by stormwater discharges from areas of existing development through the development and implementation of Stormwater Pollution Prevention Plans (SWPPPs). SWPPPs shall be prepared and implemented for all Port-owned lands with potential pollutant-generating sources (see Appendix 3, for

definition of pollutant-generating sources) that are not covered under the Industrial Stormwater General Permit, the Boatyard General Permit or an individual NPDES permit that covers stormwater discharges, and that could contribute pollutants to municipal separate storm sewers owned or operated by the Port.

Minimum Performance Measures

- a. SWPPPs must be developed for applicable properties within 18 months of receiving coverage under this permit. The SWPPP is a documented plan to implement measures to identify, prevent, and control the contamination of discharges of stormwater to surface or ground water.
 - b. The SWPPP shall include a facility assessment including a site plan, identification of pollutant sources and description of the drainage system.
 - c. The SWPPP shall include a description of the BMPs necessary for the site to eliminate or reduce stormwater contamination and, if necessary, regulate peak flow and volume of stormwater discharge. Implementation of non-structural BMPs shall begin immediately after the pollution prevention plan is developed. A schedule for implementation of structural BMPs shall be included in the SWPPP. Generic SWPPPs that can be applied at multiple sites may be used to comply with this requirement.
 - d. The Port shall maintain a list of sites for which SWPPPs are required under this permit. At least 15% of the listed sites shall be inspected annually, and 80% of the total number of listed properties will be inspected during the term of the permit.
 - e. The SWPPPs shall include policies and procedures to reduce pollutants associated with the application of pesticides, herbicides and fertilizer.
 - f. The SWPPPs shall include measures to prevent, identify and respond to illicit discharges, including illicit connections, spills and improper disposal. Immediately upon becoming aware of a spill into the drainage system owned or operated by the Port, the Port shall notify the City or County it is located in, and notify Ecology.
 - g. The SWPPPs shall include a component related to inspection and maintenance of stormwater treatment and flow control facilities, and catchbasins, that is consistent with the Port's Operation and Maintenance Program, as specified in 3., below. The SWPPP will address appropriate training for maintenance staff. Records of inspections and maintenance activities shall be maintained.
3. Operation and Maintenance Program. The SWMP shall include an operation and maintenance program for all stormwater treatment and flow control facilities, and catchbasins to ensure that BMPs continue to function properly.
- #### Minimum Performance Measures:
- a. Each Port must prepare an operation and maintenance manual for all stormwater treatment and flow control BMPs that are owned or maintained by

1 the Port. The deadline for preparing the maintenance manual is 18 months after
2 receiving coverage under this permit. A copy of the manual shall be retained in
3 the appropriate Port department. The operation and maintenance manual shall
4 establish facility-specific maintenance standards that are as protective, or more
5 protective than those specified in Chapter 4 of Volume V of the 2001
6 Stormwater Management Manual for Western Washington.

7 The facility-specific maintenance standards are intended to be conditions for
8 determining if maintenance actions are required as identified through
9 inspection. They are not a measure of the facilities required condition at all
10 times between inspections. Exceeding the maintenance standards between
11 inspections and/or maintenance does not automatically constitute a violation of
12 these standards. However, based upon inspection observations, the inspection
13 and maintenance schedules shall be adjusted to minimize the length of time that
14 a facility is in a condition that requires a maintenance action. These standards
15 are violated when an inspection identifies a required maintenance action, and
16 that action is not performed within 90 days for typical maintenance, within 6
17 months for re-vegetation, and within 1 year for maintenance that requires capital
18 construction.

19 b. Each Port will manage maintenance activities to inspect all stormwater
20 treatment and flow control BMPs annually and take appropriate maintenance
21 action in accordance with the operation and maintenance manual. The annual
22 inspection schedule may be changed to a lesser or greater frequency of
23 inspection as appropriate to ensure compliance with maintenance standards
24 based on maintenance records of double the length of time of the proposed
25 inspection frequency.

26 c. The Port shall provide appropriate training for Port maintenance staff.

27 4. Education Program. The SWMP shall include an education program aimed at
28 tenants and Port employees. The goal of the education program is to reduce or
29 eliminate behaviors and practices that cause or contribute to adverse stormwater
30 impacts.

31 Minimum Performance Measure:

32 a. No later than 18 months after receiving coverage under this permit, all tenant
33 and Port employees whose job duties could negatively impact stormwater will
34 receive educational materials.

35 5. Monitoring Program. The monitoring requirements for the Port of Seattle and Port
36 of Tacoma are included in Special Condition S6.

37 E. Stormwater Management Program for King County as a Co-Permittee

38 King County as a Co-Permittee with the City of Seattle for the Densmore and Lander
39 Metro Drainage Basins, as defined in the Memorandum of Agreement between the City
40 and King County dated September 25, 1995, shall participate in the City of Seattle's

Stormwater Management Program in accordance with the Joint Stormwater Management Program element of the Memorandum of Agreement. The Joint Stormwater Management Program shall at a minimum include the following:

1. Stormwater controls for areas of existing development consistent with S7.C.6.
2. A source control program consistent with S7.C.7.
3. An illicit discharge reduction program consistent with S7.C.8.
4. An operation and maintenance program consistent with S7.C.9.
5. A public education program consistent with S7.C.10.

[NOTE TO ECOLOGY: King County remains a co-permittee with the City of Seattle for both Densmore and Lander drainage basins, per the existing agreement and as noted by King County in their Annual Reports to Ecology under the existing NPDES Permit.]

F. Stormwater Management Program for Secondary Permittees

All other Secondary Permittees shall develop and implement the following Stormwater Management Program. The term “all other Secondary Permittees” means drainage, diking, flood control, or diking and drainage districts, and any other owners or operators of municipal separate storm sewers located within the geographic boundaries of the municipalities that are listed as Permittees in special condition S1.B.

The SWMP shall be designed to reduce the discharge of pollutants from ~~regulated small MS4s~~ the MS3s owned or operated by the Secondary Permittee within the above geographical boundaries to the maximum extent practicable and protect water quality. A SWMP is a set of actions and activities comprising the components listed in S8.F.1 through S8.F.6, below, for which the minimum performance measures are the mandatory implementation. Unless an alternate deadline is provided below, all components of the SWMP shall be fully developed and implemented within 5 years of receiving coverage under this permit.

[NOTE TO ECOLOGY: All provisions for Secondary Permittees should be consistent in Phase I and Phase II permits.]

1. Public Education and Outreach

Secondary Permittees must develop and implement a public education and outreach program. The program shall distribute educational materials or conduct equivalent outreach activities to educate the public, businesses and other entities in the area served by the Secondary Permittees ~~MS3s~~ 4.

The minimum performance measures are:

- a. Each Secondary Permittee shall identify at least one target audience served by the Secondary Permittee's ~~MS3s~~ 4 for stormwater education and will provide appropriate information to that audience about proper stormwater management to prevent water quality impacts.

- b. The target audience(s) must be identified within one year from the date of permit coverage; an outreach strategy designed to reach ~~100% of~~ the identified target audience must be developed and implemented within four years from the date of permit coverage. This requirement may be met by participating in the education program of the permitted Phase I jurisdiction that the secondary permittee is located within.

[NOTE TO ECOLOGY: See remarks under S7.C.10 regarding the problem of requiring 100 percent.]

2. Public Involvement

At a minimum, Secondary Permittees must comply with applicable State, tribal and local public notice requirements when implementing a public involvement and participation program. The SWMP shall include ongoing opportunities for public involvement and participation through advisory panels, public hearings, watershed committees, participation in developing rate-structures, stewardship programs, environmental activities, volunteer opportunities, or other similar activities.

3. Illicit Discharge Detection and Elimination

The SWMP shall include measures to prevent, identify and respond to illicit discharges permitted to the MS3s owned or operated by the Secondary Permittee, including illicit connections, spills, and improper disposals, which shall include appropriate inspections and reports, and appropriate training and procedures to be used by field staff to recognize, report, and respond to, illicit discharges.

The minimum performance measures are:

- a. From the date of permit coverage, comply with all relevant ordinances, rules, and regulations of the local jurisdiction(s) in which the Secondary Permittee permitted MS3s are ~~is~~ located that govern discharges into the local jurisdiction's municipal separate storm sewer system.
- b. Develop and enforce appropriate policies prohibiting illicit discharges and illegal dumping. Identify possible enforcement mechanisms within one year from the date of permit coverage; and, within eighteen months from the date of permit coverage, develop and implement an enforcement plan using these mechanisms to ensure compliance with illicit discharge policies adopted by the Secondary Permittee.
- c. Develop a map of the permitted municipal separate storm sewers ~~system~~ owned or operated by the Secondary Permittee within 2 years from the date of permit coverage. The map shall include all known storm drain outfalls owned or operated by the Secondary Permittee to waters of the state and the name of the receiving water body or discharge points into adjacent MS4s. The map shall also include all known tributary conveyances, and their associated drainage areas, for all areas served by the permitted MS3s⁴ owned or operated by the Secondary Permittee.

The storm sewer map shall be provided to the City or County in which the Secondary Permittee is located, upon the request of either of those entities. In accordance with S7.C.2, Secondary Permittees may request mapping information from other entities covered under this permit.

- d. By the end of the permit term, develop and implement a spill response plan that includes coordination with a qualified spill responder.
- e. Provide staff training or coordinate with existing training efforts to educate relevant staff on proper best management practices for identifying and preventing spills and illicit discharges. ~~All~~Relevant staff must be trained by the end of the permit term.
- f. Identify areas of industrial activity served by the Secondary Permittee's permitted MS3s4 that require coverage under the Industrial General Permit, determine whether coverage has been obtained, and inform ~~the Department~~Ecology if coverage has not be obtained.

4. Construction Site Stormwater Runoff Control

The SWMP shall include a program to reduce pollutants in any stormwater runoff to the permitted MS3s owned or operated by the Secondary Permittee MS4 from Secondary Permittee's construction activities that meet the thresholds in Appendix 1 of this permit.

The minimum performance measures are:

- a. From the date of permit coverage, comply with all relevant ordinances, rules, and regulations of the local jurisdiction(s) in which the ~~S~~secondary ~~P~~permittee is located that govern construction phase stormwater pollution prevention measures.
- b. From the date of permit coverage, seek coverage under the General NPDES Permit for Stormwater Discharges Associated with Construction Activities, when applicable.
- c. Provide training or coordinate with existing training efforts to educate relevant staff in erosion and sediment control BMPs and requirements, or hire trained contractors to perform the work.

5. Post-Construction Stormwater Management for New Development and Redevelopment

The SWMP shall include a program to address post-construction stormwater runoff from new development and redevelopment projects of the Secondary Permittee that meet the thresholds in Appendix 1 of this permit and discharge to permitted MS3s owned or operated by the Secondary Permittee. The program must ~~ensure~~require that controls are in place that would prevent or minimize water quality impacts.

The minimum performance measures are:

- a. From the date of permit coverage, comply with all relevant ordinances, rules and regulations of the local jurisdiction(s) in which the Secondary Permittee's permitted MS3s are ~~is~~ located that govern post-construction stormwater pollution prevention measures, including proper operation and maintenance of the MS3s4.
- b. Provide for the post-construction stormwater controls included in Appendix 1 to be included on all new construction and other land-disturbing projects of the Secondary Permittee and ~~ensure~~ require that qualified staff or contractors for Secondary Permittee design post-construction stormwater controls, ~~as necessary to protect water quality on all projects.~~

6. Pollution Prevention and Good Housekeeping

All permittees must develop and implement an operation and maintenance program (O&M Plan) that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations into MS4s. Within three years from the date of permit coverage, each Secondary Permittee shall develop a municipal O&M Plan for the permitted MS3s owned or operated by Secondary Permittee. The O&M plan shall be fully implemented no later than five years from the date of permit coverage.

The minimum performance measures are:

- a. The O&M Plan shall include appropriate pollution prevention and good housekeeping procedures for the following activities and/or types of facilities carried out, or under the functional control ~~of the~~ of the Secondary Permittee that discharge to the permitted MS3s owned or operated by Secondary Permittee:
 - Stormwater collection and conveyance system maintenance
 - Drainage/ditch system maintenance
 - Structural stormwater controls
 - Roads, highways, and parking lots
 - Vehicle fleets (storage, washing, and maintenance)
 - Equipment storage and maintenance areas
 - Material storage areas
 - Parks and open space
 - Other facilities ~~that~~ that would reasonably be expected to discharge contaminated runoff to the permitted MS3s.
- b. The O&M plan shall include pollution prevention/good housekeeping practices at all park areas and other open spaces maintained by the Secondary Permittee that discharge to the permitted MS3s owned or operated by Secondary Permittee. The O&M Plan must address, but is not limited to:
 - Application of fertilizer, pesticides, and herbicides
 - Sediment and erosion control
 - Landscape maintenance and vegetation disposal
 - Trash management
 - Building exterior cleaning and maintenance

- 1 c. The O&M Plan shall include provisions for the regular inspection and
2 maintenance of post-construction structural BMPs owned or operated by the
3 Secondary Permittee that discharge to the permitted MS3s. The O&M Plan shall
4 establish facility-specific maintenance standards that are as protective or more
5 protective than those specified in Chapter 4 of Volume V of the 2005 Stormwater
6 Management Manual for Western Washington.

7 The facility-specific maintenance standards are intended to be conditions for
8 determining if maintenance actions are required as identified through inspection.
9 They are not a measure of the facility's required condition at all times between
10 inspections. Exceeding the maintenance standards between inspections and/or
11 maintenance does not automatically constitute a violation of these standards.
12 However, based upon inspection observations, the inspection and maintenance
13 schedules shall be adjusted to minimize the length of time that a facility is in a
14 condition that requires a maintenance action. These standards are violated when
15 an inspection identifies a required maintenance action, and that action is not
16 performed within 90 days for typical maintenance, within 6 months for re-
17 vegetation, and within 1 year for maintenance that requires capital construction of
18 less than \$5,000.

- 19 d. Secondary Permittees shall implement a plan designed to annually inspect ~~all~~-post
20 construction stormwater BMPs covered by the O&M plan. The annual
21 inspections program shall begin no later than three years from the date of permit
22 coverage. The annual inspection schedule may be changed to a lesser or greater
23 frequency of inspection as deemed by Permittee to be appropriate to ensure
24 compliance with ~~for~~ maintenance ~~standards~~ based on maintenance records of
25 double the length of time of the proposed inspection frequency.

- 26 e. Secondary Permittees shall properly maintain stormwater collection and
27 conveyance systems owned or operated by Secondary Permittee and that are part
28 of the permitted MS3s, including but not limited to: regular inspections, cleaning,
29 proper disposal of waste removed from the system (per Appendix 7), and record
30 keeping.

- 31 f. From the effective date of permit coverage, Secondary Permittees shall identify,
32 and submit a Notice of Intent for permit coverage for all facilities operated by the
33 Secondary Permittee that are required to be covered under the General NPDES
34 Permit for Stormwater Discharges Associated with Industrial Activities.

- 35 g. Secondary Permittees shall provide appropriate training for employees of the
36 Secondary Permittee whose construction, operations, or maintenance job
37 functions the Secondary Permittee determines may impact stormwater quality.
38 Training shall address the importance of protecting water quality, the
39 requirements of this permit, operation and maintenance requirements, inspection
40 procedures, ways to perform their job activities to prevent or minimize impacts to
41 water quality, and procedures for reporting water quality concerns, including
42 potential illicit discharges.

S9. REPORTING REQUIREMENTS

- A. Each Permittee, co-Permittee and secondary Permittee shall submit, no later than March 31 of each year beginning in the year 2007, an annual report. The reporting period for each annual report shall be the previous calendar year.
- B. The annual report shall include the following information in the form provided in Appendix 8:
 1. Status of compliance with the conditions of this permit, including the status of implementing the components of the stormwater management program, and the implementation schedule. If permit deadlines are not met, Permittees, co-Permittees and secondary Permittees shall report the reasons why the requirement was not met and how the requirements will be met in the future, including projected implementation dates. A comparison of program implementation results to performance standards established in this permit shall be included for each program area.
 2. Notification of any recent or proposed annexations or incorporations resulting in an increase or decrease in permit coverage area, and expected implications for the stormwater management program
 3. Expenditures for the reporting period, with a breakdown for the components of the stormwater management program.
 4. A summary describing compliance activities, including the nature and number of official enforcement actions, inspections, and types of public education activities; and
 5. Identification of known water quality improvements or degradation.

C. Report Format

Each Permittee, co-Permittee or secondary Permittee shall use the attached reporting forms, in Appendix 8, ~~which is by this reference as if set forth fully herein~~. Each Permittee shall complete the applicable form in its entirety. Two copies of the annual report shall be submitted to Ecology. In addition, an electronic copy of the report, in pdf format, shall be submitted to Ecology

D. Report Certification

Ecology shall review and certify in writing within 30 days of receipt that the report submitted by the permittee satisfies the requirements of this permit.

1 GENERAL CONDITIONS

2
3 **G1. DISCHARGE VIOLATIONS**

4 All discharges and activities authorized by this permit shall be consistent with the terms
5 and conditions of this permit.

6 **G2. PROPER OPERATION AND MAINTENANCE**

7 The Permittee shall at all times properly operate and maintain all facilities and systems of
8 collection, treatment, and control (and related appurtenances) which are installed or used
9 by the Permittee for pollution control to achieve compliance with the terms and conditions
10 of this permit.

11 **G3. NOTIFICATION OF SPILL**

12 If a Permittee has knowledge of a spill into its municipal storm sewer which could
13 constitute a threat to human health, welfare, or the environment, the Permittee shall notify
14 the Ecology regional office and other appropriate spill response authorities immediately but
15 in no case later than within 24 hours of obtaining that knowledge. Spills into a Permittee's
16 municipal storm sewer system about which the Permittee has knowledge and which might
17 cause bacterial contamination of shellfish, such as might result from broken sewer lines,
18 shall be reported immediately to the Department of Ecology and the Department of Health,
19 Shellfish Program, if Permittee has knowledge of such spill. The Department of Ecology's
20 Regional Office 24-hr. number is 425 649-7000 for NWRO and 360 407-6300 for SWRO
21 and the Department of Health's Shellfish 24-hr. number is 360-236-3330.

22 **G4. BYPASS PROHIBITED**

23 The intentional *bypass* of stormwater from all or any portion of a stormwater treatment
24 BMP whenever the design capacity of the treatment BMP is not exceeded, is prohibited
25 unless the following conditions are met:

- 26 A. Bypass is: (1) unavoidable to prevent loss of life, personal injury, or severe property
27 damage; or (2) necessary to perform construction or maintenance-related activities
28 essential to meet the requirements of the *Clean Water Act* (CWA); and
- 29 B. There are no feasible alternatives to bypass, such as the use of auxiliary treatment
30 facilities, retention of untreated stormwater, or maintenance during normal dry periods.
- 31 "Severe property damage" means substantial physical damage to property, damage to
32 the treatment facilities which would cause them to become inoperable, or substantial
33 and permanent loss of natural resources which can reasonably be expected to occur in
34 the absence of a bypass. Severe property damage does not mean economic loss.

1 **G5. RIGHT OF ENTRY**

2 The Permittee shall allow an authorized representative of Ecology, upon the presentation of
3 credentials and such other documents as may be required by law at reasonable times:

- 4 A. To enter upon the Permittee's premises where a discharge is located or where any
5 records must be kept under the terms and conditions of this permit;
- 6 B. To have access to, and copy at reasonable cost and at reasonable times, any records that
7 must be kept under the terms of the permit;
- 8 C. To inspect at reasonable times any monitoring equipment or method of monitoring
9 required in the permit;
- 10 D. To inspect at reasonable times any collection, treatment, pollution management, or
11 discharge facilities; and
- 12 E. To sample at reasonable times any discharge of pollutants.

13 **G6. DUTY TO MITIGATE**

14 The Permittee shall take all reasonable steps to minimize or prevent any discharge in
15 violation of this permit which has a reasonable likelihood of adversely affecting human
16 health or the environment.

17 **G7. PROPERTY RIGHTS**

18 This permit does not convey any property rights of any sort, or any exclusive privilege.

19 **G8. COMPLIANCE WITH OTHER LAWS AND STATUTES**

20 Nothing in the permit shall be construed as excusing the Permittee from compliance with
21 any other applicable federal, state, or local statutes, ordinances, or regulations.

22 **G9. MONITORING**

23 A. Representative Sampling:

24 Samples and measurements taken to meet the requirements of this permit shall be
25 representative of the volume and nature of the monitored discharge, including
26 representative sampling of any unusual discharge or discharge condition, including
27 bypasses, upsets, and maintenance-related conditions affecting effluent quality.

28 B. Records Retention:

29 The Permittee shall retain records of all monitoring information, including all
30 calibration and maintenance records and all original recordings for continuous
31 monitoring instrumentation, copies of all reports required by this permit, and records of
32 all data used to complete the application for this permit, for a period of at least five
33 years. This period of retention shall be extended during the course of any unresolved
34 litigation regarding the discharge of pollutants by the Permittee or when requested by
35 the *Director*. On request, monitoring data and analysis shall be provided to Ecology.

36 C. Recording of Results:

For each measurement or sample taken, the Permittee shall record the following information: (1) the date, exact place and time of sampling; (2) the individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.

D. Test Procedures:

All sampling and analytical methods used to meet the monitoring requirements specified in the approved stormwater management program shall conform to the Guidelines Establishing Test Procedures for the Analysis of Pollutants contained in 40 CFR Part 136, unless otherwise specified in this permit or approved in writing by Ecology.

E. Flow Measurement:

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements are consistent with the accepted industry standard for that type of device. Frequency of calibration shall be in conformance with manufacturer's recommendations or at a minimum frequency of at least one calibration per year. Calibration records should be maintained for a minimum of three years.

F. Lab Accreditation:

All monitoring data, except for flow, temperature, conductivity, pH, total residual chlorine, and other exceptions approved by Ecology, shall be prepared by a laboratory registered or accredited under the provisions of, Accreditation of Environmental Laboratories, Chapter 173-50 WAC. Soils and hazardous waste data are exempted from this requirement pending accreditation of laboratories for analysis of these media by Ecology.

G. Additional Monitoring:

Ecology may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

G10. REMOVED SUBSTANCES

With the exception of decant from street waste vehicles, the Permittee shall not allow collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of stormwater to be resuspended or reintroduced to the storm sewer system or to waters of the state. Decant from street waste vehicles resulting from cleaning stormwater facilities may be reintroduced only when other practical means are not available and only in accordance with the Street Waste Disposal Guidelines in Appendix 7, ~~which is by this reference as if set forth fully herein.~~

1 **G11. SEVERABILITY**

2 The provisions of this permit are severable, and if any provision of this permit, or the
3 application of any provision of this permit to any circumstance, is held invalid, the
4 application of such provision to other circumstances, and the remainder of this permit
5 shall not be affected thereby.

6 **G12. REVOCATION OF COVERAGE**

7 The director may terminate coverage under this General Permit in accordance with
8 Chapter 43.21B RCW and Chapter 173-226 WAC. Cases where coverage may be
9 terminated include, but are not limited to the following:

- 10 A. Violation of any term or condition of this general permit;
- 11 B. Obtaining coverage under this general permit by misrepresentation or failure to
12 disclose fully all relevant facts;
- 13 C. A change in any condition that requires either a temporary or permanent reduction
14 or elimination of the permitted discharge;
- 15 D. A determination that the permitted activity endangers human health or the
16 environment, or contributes significantly to water quality standards violations;
- 17 E. Failure or refusal of the Permittee to allow entry as required in [RCW](#) ~~rew~~ 90.48.090;
- 18 F. Nonpayment of permit fees assessed pursuant to [RCW](#) ~~rew~~ 90.48.465;

19 Revocation of coverage under this general permit may be initiated by Ecology or
20 requested by any interested person.

21 **G13. TRANSFER OF COVERAGE**

22 The director may require any discharger authorized by this general permit to apply for
23 and obtain an individual permit in accordance with Chapter 43.21B RCW and Chapter
24 173-226 WAC.

25 **G14. GENERAL PERMIT MODIFICATION AND REVOCATION**

26 This general permit may be modified, revoked and reissued, or terminated in
27 accordance with the provisions of WAC 173-226-230. Grounds for modification,
28 revocation and reissuance, or termination include, but are not limited to the following:

- 29 A. A change occurs in the technology or practices for control or abatement of
30 pollutants applicable to the category of dischargers covered under this general
31 permit;
- 32 B. Effluent limitation guidelines or standards are promulgated pursuant to the CWA or
33 chapter 90.48RCW, for the category of dischargers covered under this general
34 permit;
- 35 C. A water quality management plan containing requirements applicable to the
36 category of dischargers covered under this general permit is approved; or

1 D. Information is obtained which indicates that cumulative effects on the environment
2 from dischargers covered under this general permit are unacceptable.

3 **G15. REPORTING A CAUSE FOR MODIFICATION OR REVOCATION**

4 A Permittee who knows or has reason to believe that any activity has occurred or will
5 occur which would constitute cause for modification or revocation and reissuance under
6 Condition G12, G14, or 40 CFR 122.62 must report such plans, or such information, to
7 Ecology so that a decision can be made on whether action to modify, or revoke and
8 reissue this permit will be required. All such reports shall be made in the annual report,
9 unless otherwise directed by Ecology. Ecology may then require submission of a new
10 or amended application. Submission of such application does not relieve the Permittee
11 of the duty to comply with this permit until it is modified or reissued.

12 **G16. APPEALS**

- 13 A. The terms and conditions of this general permit, as they apply to the appropriate
14 class of dischargers, are subject to appeal within thirty days of issuance of this
15 general permit, in accordance with Chapter 43.21B RCW, and Chapter 173-226
16 WAC.
- 17 B. The terms and conditions of this general permit, as they apply to an individual
18 discharger, are appealable in accordance with chapter 43.21b rcw within thirty days
19 of the effective date of coverage of that discharger. Consideration of an appeal of
20 general permit coverage of an individual discharger is limited to the general
21 permit's applicability or nonapplicability to that individual discharger.
- 22 C. The appeal of general permit coverage of an individual discharger does not affect
23 any other dischargers covered under this general permit. If the terms and conditions
24 of this general permit are found to be inapplicable to any individual discharger(s),
25 the matter shall be remanded to ecology for consideration of issuance of an
26 individual permit or permits.
- 27 D. Modifications of this permit are appealable in accordance with chapter 43.21B
28 RCW and chapter 173-226 WAC.

29 **G17. PENALTIES**

30 40 CFR 122.41(a)(2) and (3), 40 CFR 122.41(j)(5), and 40 CFR 122.41(k)(2) are
31 hereby incorporated into this permit by reference.

32 **G18. DUTY TO REAPPLY**

33 The Permittee must apply for permit renewal at least 180 days prior to the specified
34 expiration date of this permit. An expired permit continues in force and effect until a
35 new permit is issued or until Ecology cancels the permit. Only Permittees who have
36 reapplied for coverage under this permit are covered under the continued permit.

1 **G19. CERTIFICATION AND SIGNATURE**

2 All applications, reports, or information submitted to Ecology shall be signed and
3 certified.

4 A. All permit applications shall be signed by either a principal executive officer or
5 ranking elected official.

6 B. All reports required by this permit and other information requested by Ecology shall
7 be signed by a person described above or by a duly authorized representative of that
8 person. A person is a duly authorized representative only if:

9 1. The authorization is made in writing by a person described above and submitted
10 to Ecology, and

11 2. The authorization specifies either an individual or a position having responsibility
12 for the overall development and implementation of the stormwater management
13 program. (A duly authorized representative may thus be either a named individual
14 or any individual occupying a named position.)

15 C. Changes to authorization. If an authorization under General Condition G19.B.2 is no
16 longer accurate because a different individual or position has responsibility for the
17 overall development and implementation of the stormwater management program, a
18 new authorization satisfying the requirements of General Condition G19.B.2 must be
19 submitted to Ecology prior to or together with any reports, information, or
20 applications to be signed by an authorized representative.

21 D. Certification. Any person signing a document under this permit shall make the
22 following certification:

23 "I certify under penalty of law, that this document and all attachments were prepared
24 under my direction or supervision in accordance with a system designed to assure that
25 qualified personnel properly gathered and evaluated the information submitted.
26 Based on my inquiry of the person or persons who manage the system or those
27 persons directly responsible for gathering information, the information submitted is,
28 to the best of my knowledge and belief, true, accurate, and complete. I am aware that
29 there are significant penalties for submitting false information, including the
30 possibility of fine and imprisonment for willful violations."

31 **G20. RECORDS RETENTION**

32 Each Permittee is required to keep all records related to this permit for at least five years.

33 ~~G21+6.~~ **UPSET**

34 "Upset" means an exceptional incident in which there is unintentional and temporary
35 noncompliance with technology-based permit effluent limitations because of factors
36 beyond the reasonable control of the Permittee. An upset does not include
37 noncompliance to the extent caused by operational error, improperly designed treatment
38 facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or
39 improper operation.

1 An upset constitutes an affirmative defense to an action brought for noncompliance with
2 such technology-based permit effluent limitations if the requirements of the following
3 paragraph are met.

4 A Permittee who wishes to establish the affirmative defense of upset shall demonstrate,
5 through properly signed, contemporaneous operating logs, or other relevant evidence
6 that: 1) an upset occurred and that the Permittee can identify the cause(s) of the upset; 2)
7 the permitted facility was being properly operated at the time of the upset; and 3) the
8 Permittee submitted notice of the upset within five days.

9 In any enforcement proceeding the Permittee seeking to establish the occurrence of an
10 upset has the burden of proof.

1 **DEFINITIONS AND ACRONYMS**

2 "Best Management Practices" ("BMPs") means the schedules of activities, prohibitions of
3 practices, maintenance procedures, and structural and/or managerial practices that when used
4 singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to
5 waters of Washington State.

6 Bypass means the diversion of stormwater from any portion of a stormwater treatment facility.

7 "CWA" means Clean Water Act (formerly referred to as the Federal Water Pollution Control Act
8 or Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub.
9 L. 95-217, Pub. L. 95-576, Pub. L. (6-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.

10 "Component" or "Program Component" means the elements of the stormwater management
11 program listed in Special Condition S7 or S8.

12 "Co-Permittee" means an owner or operator of a municipal separate storm sewer (other than an
13 incorporated city) located within a large or medium municipality, that has co-applied for a permit
14 with that municipality, and that is only responsible for permit conditions relating to the discharge
15 for which it is operator.

16 "Director" means the Director of the Washington State Department of Ecology, or an authorized
17 representative.

18 "Discharge" for the purpose of this permit, unless indicated otherwise, refers to discharges from
19 Municipal Separate Storm Sewers of the Permittees.

20 ~~"Existing Stormwater Discharge" means a discharge from a municipal separate storm sewer~~
21 ~~constructed or vested before the effective date of this permit, at the point where it discharges to~~
22 ~~receiving waters. An existing stormwater discharge serves an area of existing development and~~
23 ~~does not include new stormwater sources or new stormwater outfalls~~

24 "40 CFR" means Title 40 of the Code of Federal Regulations, which is the codification of the
25 general and permanent rules published in the Federal Register by the executive departments and
26 agencies of the federal government.

27 "General Permit" means a permit which covers multiple dischargers of a point source category
28 within a designated geographical area, in lieu of individual permits being issued to each
29 discharger.

30 "Heavy equipment maintenance or storage yard" means an uncovered area where any heavy
31 equipment, ~~which is defined as such as~~ mowing equipment, excavators, dump trucks, backhoes,
32 or bulldozers ~~is are~~ washed or regularly maintained ~~at an established heavy equipment washing~~
33 ~~facility or heavy equipment maintenance facility~~, or where at least five pieces of heavy
34 equipment are stored on a permanent basis.

1 **[NOTE TO ECOLOGY: Details are needed to make this requirement more clear.]**

2 “Illicit connection” means any man-made conveyance that is connected to a municipal separate
3 storm sewer in a manner deemed unauthorized by the Permittee, such as without a permit or
4 other legal justification, excluding roof drains, foundation and footing drains, and other similar
5 type connections designed to convey drainage, surface water and ground water. Examples
6 include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets
7 that are connected directly to the municipal separate storm sewer system.

8 **[NOTE TO ECOLOGY: Details are needed to make this requirement more clear.]**

9 “Illicit discharge” means any discharge to a municipal separate storm sewer that is not composed
10 entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES
11 permit for discharges from the municipal separate storm sewer) and discharges resulting from
12 fire fighting activities, except that discharges in the categories listed in [Appendix 4/Special
13 Condition 2] are not illicit discharges unless so determined by Permittee according to the terms
14 of this permit.

15 **[NOTE TO ECOLOGY: This definition needs to be linked to the list of categories, which**
16 **will appear either in Appendix 4 or, if Ecology accepts Seattle’s proposed rewrite of Special**
17 **Condition S2, in S2.]**

18 “Integrated Pest Management” means a coordinated decision-making and action process that
19 uses the most appropriate pest control methods and strategy in an environmentally and
20 economically sound manner to meet agency programmatic pest management objectives. The
21 elements of integrated pest management ~~include~~are contained in RCW 17.15.010.:

22 ~~(a) Preventing pest problems;~~

23 ~~(b) Monitoring for the presence of pests and pest damage;~~

24 ~~(c) Establishing the density of the pest population, that may be set at zero, that can be tolerated or~~
25 ~~correlated with a damage level sufficient to warrant treatment of the problem based on health,~~
26 ~~public safety, economic, or aesthetic thresholds;~~

27 ~~(d) Treating pest problems to reduce populations below those levels established by damage~~
28 ~~thresholds using strategies that may include biological, cultural, mechanical, and chemical~~
29 ~~control methods and that must consider human health, ecological impact, feasibility, and cost-~~
30 ~~effectiveness; and~~

31 ~~(e) Evaluating the effects and efficacy of pest treatments.~~

32 “Pest” means, but is not limited to, any insect, rodent, nematode, snail, slug, weed, and any form
33 of plant or animal life or virus, except virus, bacteria, or other microorganisms on or in a living
34 person or other animal or in or on processed food or beverages or pharmaceuticals, which is
35 normally considered to be a pest, or which the director of the department of agriculture may
36 declare to be a pest.

1 **[NOTE TO ECOLOGY: The definition does not need this level of detail and can be**
2 **shortened to refer readers to RCW 17.15.010.]**

3 "Large Municipal Separate Storm Sewer System (Large MS4)" means all Municipal Separate
4 Storm Sewers located in an incorporated place with a population of 250,000 or more, a County
5 with unincorporated urbanized areas with a population of 250,000 or more according to the 1990
6 decennial census by the Bureau of Census.

7 "Low Impact Development" (LID) means a stormwater management and land development
8 strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-
9 site natural features integrated with engineered, small-scale hydrologic controls to more closely
10 mimic pre-development hydrologic functions.

11 "Major Municipal Separate Storm Sewer Outfall" means a municipal separate storm sewer
12 outfall from a single pipe with an inside diameter of 36 inches or more, or its equivalent
13 (discharge from a single conveyance other than circular pipe which is associated with a drainage
14 area of more than 50 acres); or for municipal separate storm sewers that receive stormwater from
15 lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an
16 outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its
17 equivalent (discharge from other than a circular pipe associated with a drainage area of 12 acres
18 or more).

19 "Material Storage Facilities" means an uncovered area used on a permanent basis for outside
20 storage of uncontained ~~where~~ bulk materials (liquid, solid, granular, etc.) ~~are stored~~ in piles,
21 barrels, tanks, bins, crates, or other means.

22 **[NOTE TO ECOLOGY: Details are needed to make this requirement more clear.]**

23 "Medium Municipal Separate Storm Sewer System (Medium MS4)" means all Municipal
24 Separate Storm Sewers (MS3s) located in an incorporated place with a population of more than
25 100,000 but less than 250,000, or a county with unincorporated urbanized areas of more than
26 100,000 but less than 250,000 according to the 1990 decennial census by the Bureau of Census.

27 "Municipal Separate Storm Sewer (MS3)" means a conveyance, or system of conveyances
28 (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches,
29 manmade channels, or storm drains): (i) owned or operated by a state, city, town, borough,
30 county, parish, district, association, or other public body (created by or pursuant to State Law)
31 having jurisdiction over disposal of wastes, storm water, or other wastes, including special
32 districts under State Law such as a sewer district, flood control district or drainage district, or
33 similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and
34 approved management agency under section 208 of the CWA that discharges to waters of the
35 United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a
36 combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW) as
37 defined at 40 CFR 122.2.

1 "National Pollutant Discharge Elimination System" (NPDES) means the national program for
2 issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and
3 imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the
4 Federal Clean Water Act, for the discharge of pollutants to surface waters of the state from point
5 sources. These permits are referred to as NPDES permits and, in Washington State, are
6 administered by the Washington Department of Ecology.

7 ~~"New Stormwater Discharge" includes new stormwater sources and new stormwater outfalls.~~

8 "New Stormwater Outfall" means a municipal separate storm sewer, at the point where it
9 discharges to receiving waters, that is vested after the effective date of this permit, and is
10 constructed at a location where a municipal separate stormwater discharge did not exist at the
11 effective date of the permit. A new stormwater outfall may consist of new stormwater sources,
12 existing stormwater sources or a combination of new and existing stormwater sources. A new
13 stormwater outfall does not include a replacement of an existing outfall, provided that the
14 replacement does not increase the volume, flow rate, or pollutant load of the discharge, and
15 discharges to the same water body at approximately the same location.

16 ~~"New Stormwater Source" means any New Development and Redevelopment, as defined in~~
17 ~~Appendix 1, that is vested after the effective date of this permit, increases the volume, flow rate,~~
18 ~~or pollutant load of the stormwater runoff from the site, and discharges to a municipal separate~~
19 ~~storm sewer owned or operated by the Permittee or co-Permittee.~~

20 "Notice of Intent" (NOI) means the application for, or a request for coverage under this General
21 Permit pursuant to WAC 173-226-200.

22 "Notice of Intent for Construction Activity," and "Notice of Intent for Industrial Activity" mean
23 the application forms for coverage under the Construction Stormwater General Permit and the
24 Industrial Stormwater General Permit.

25 "Outfall" means point source as defined by 40 CFR 122.2 at the point where a municipal
26 separate storm sewer discharges to waters of the State and does not include open conveyances
27 connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances which
28 connect segments of the same stream or other waters of the State and are used to convey waters
29 of the State.

30 "Physically Interconnected" means that one MS~~3~~⁴ is connected to a second MS~~3~~⁴ in such a way
31 that it allows for direct discharges to the second system. For example, the roads with drainage
32 systems and municipal streets of one entity are physically connected directly to a MS4 belonging
33 to another entity.

34 **[NOTE TO ECOLOGY: The term as used in S7.C.3 describes MS3s, not MS4s.]**

35 "Process Wastewater" means any water which, during manufacture or processing, comes into
36 direct contact with or results from the production or use of any raw material, intermediate
37 product, finished product, by product, or waste product.

1 “Qualified Personnel” means someone who has had professional training appropriate to the
2 aspects of stormwater management they are assigned~~responsible for~~.

3 **[NOTE TO ECOLOGY: There is no definition of “professional,” so the permit should use**
4 **a performance standard for training.]**

5 “Runoff” see Stormwater.

6 “Shared Waterbodies” means waterbodies, including downstream segments, lakes and estuaries,
7 that receive discharges from more than one Permittee.

8 “Site-specific Information” includes but is not limited to: information in water quality
9 management plans such as watershed or stormwater basin plans, TMDLs, groundwater
10 management plans, and lake management plans; information about hydrology, soils, or the
11 sensitivity of the receiving waters that is obtained through professional field observations or
12 monitoring; and information about likely pollutant sources.

13 “Stormwater” means stormwater runoff, snow melt runoff, and surface runoff and drainage.

14 “Stormwater Associated with Industrial Activity” means the discharge from any conveyance
15 which is used for collecting and conveying stormwater, which is directly related to
16 manufacturing, processing or raw materials storage areas at an industrial plant, and is required to
17 have an NPDES permit in accordance with 40 CFR 122.26.

18 “Stormwater Management Manual for Western Washington” means the 5-volume technical
19 manual (Publication Nos. 05-10-029 through 05-10-033) published by Ecology in February
20 2005.

21 ~~“Vesting” means the date, established by local government, that is used to determine which~~
22 ~~development regulations apply to the review of a complete development permit application or~~
23 ~~approved development permit.~~

24 **[NOTE TO ECOLOGY: This definition would not be needed if other edit**
25 **recommendations are done as the word would not be utilized.]**

26 “Waters of the State” includes those waters as defined as “waters of the United States” in 40
27 CFR Subpart 122.2 within the geographic boundaries of Washington State and “waters of the
28 state” as defined in Chapter 90.48 RCW which includes lakes, rivers, ponds, streams, inland
29 waters, underground waters, salt waters and all other surface waters and water courses within the
30 jurisdiction of the State of Washington.

31 “Water Quality Standards” means Surface Water Quality Standards, Chapter 173-201A WAC,
32 Ground Water Quality Standards, Chapter 173-200 WAC, and Sediment Management Standards,
33 Chapter 173-204 WAC.

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